

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103**

**In the Matter of:**

Washington Metropolitan Area  
Transit Authority  
600 Fifth Street, N.W.  
Washington, D.C. 20001

**RESPONDENT**

Southeastern Bus Division  
17 M Street SE  
Washington, D.C. 20003

Northern Bus Division  
4615 14<sup>th</sup> Street NW  
Washington, D.C. 20003

Western Division  
5230 Wisconsin Avenue NW  
Washington, D.C. 20017

Bladensburg Garage  
2250 & 2251 20<sup>th</sup> St. NE  
Washington, D.C. 20018

Four Mile Run Bus Garage  
3501 South Glebe Road  
Arlington, Virginia 22202

**FACILITIES**

**Docket No. RCRA-03-2009-0018**

**CONSENT AGREEMENT**

**I. PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("EPA," "Agency" or "Complainant"),

**IMO Washington Metropolitan Area Transit Authority**

Southeastern Bus Division  
Northern Bus Division  
Western Division  
Bladensburg Garage  
Four Mile Run Bus Garage

**RCRA-03-2009-0018**

and the Washington Metropolitan Area Transit Authority ("WMATA" or "Respondent") pursuant to Sections 9006 of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act ("RCRA") of 1976, as amended (hereinafter "RCRA"), 42 U.S.C. §§ 6991e, and 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, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3). This Consent Agreement and the accompanying Final Order address violations by Respondent of RCRA and the District of Columbia Municipal Regulations for Underground Storage Tanks, DCMR Title 20, Chapters 55-68, and the Virginia Regulations for Underground Storage Tanks, 9 VAC Chapter 580, as authorized by EPA pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c.

2. Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, this Consent Agreement and the attached Final Order (hereinafter jointly referred to as this "CAFO") simultaneously commence and conclude an administrative proceeding against Respondent, brought under Section 9006 of RCRA, 42 U.S.C. § 6991e, to resolve alleged violations of RCRA at Respondent's facilities at the following locations:

Southeastern Bus Division  
17 M Street SE  
Washington, D.C. 20003

Northern Bus Division  
4615 14<sup>th</sup> Street NW  
Washington, D.C. 20003

Western Bus Division  
5230 Wisconsin Avenue NW  
Washington, D.C. 20017

Bladensburg Garage  
2250 & 2251 20<sup>th</sup> St. NE  
Washington, D.C. 20018

Four Mile Run Bus Garage  
3501 South Glebe Road  
Arlington, Virginia 22202

3. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
4. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this Consent Agreement, except as provided in Paragraph 3, above.
5. Respondent agrees not to contest EPA's jurisdiction with respect to the execution and issuance of this CAFO, or the enforcement of the CAFO.
6. For 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.
7. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
8. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

**Notice of Action to the District of Columbia**

9. EPA has given the District of Columbia prior notice of the initiation of this action in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

**Notice of Action to the Commonwealth of Virginia**

10. EPA has given the Commonwealth of Virginia prior notice of the initiation of this action in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

**II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant alleges the following findings of fact and conclusions of law:

11. Respondent, is, and has been at all times relevant to this Consent Agreement, the "owner" and "operator," as those terms are defined by Sections 9001(4) and (3) of RCRA, 42 U.S.C. §§ 6991(4) and (3), 20 DCMR § 6889.1 and 9 VAC 25-580.10 of the "underground storage tanks" ("USTs") and "UST systems" as those terms are defined in

**IMO Washington Metropolitan Area Transit Authority**

Southeastern Bus Division  
Northern Bus Division  
Western Division  
Bladensburg Garage  
Four Mile Run Bus Garage

**RCRA-03-2009-0018**

Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), 20 DCMR § 6889.1, and 9 VAC 25-580.10 located at:

Southeastern Bus Division  
17 M Street SE  
Washington, D.C. 20003

Northern Bus Division  
4615 14<sup>th</sup> Street NW  
Washington, D.C. 20003

Western Bus Division  
5230 Wisconsin Avenue NW  
Washington, D.C. 20017

Bladensburg Garage  
2250 & 2251 20<sup>th</sup> St. NE,  
Washington, D.C. 20018

Four Mile Run Bus Garage  
3501 South Glebe Road  
Arlington, Virginia 22202

12. The Facilities referred to in Paragraph 11, above, are bus maintenance and fueling stations, including the underground storage tanks and all of its associated equipment and structures (hereinafter "Facilities").
13. Pursuant to 20 DCMR § 6889.1 and 9 VAC 25-580.10, the term "underground storage tank" or "UST" means, in pertinent part: any one or combination of tanks (including underground pipes) that is used to contain an accumulation of regulated substances and the volume of which (including the underground pipes connected thereto) is ten percent (10%) or more beneath the surface of the ground.
14. On December 11 and 12, 2006, EPA conducted a Compliance Evaluation Inspection ("CEI") at the Southeastern Bus Division and Northern Bus Division.
15. On February 6, 2007, an EPA contractor conducted a CEI at the Western Bus Division.

Southeastern Bus Division  
Northern Bus Division  
Western Division  
Bladensburg Garage  
Four Mile Run Bus Garage

16. On April 24, 2007, EPA conducted a CEI at the Bladensburg Garage Facility.
17. On March 28, 2008, EPA conducted a CEI at the Four Mile Run Bus Garage Facility.
18. At the time of the December 11 and 12, 2006 CEI, and at all times relevant hereto, three (3) USTs, as described in the following subparagraphs, were located at the Southeastern Bus Division Facility:
  - A. A 6,000 gallon tank that was installed in or about April 1, 1986 and that, at all times relevant hereto, routinely contained gasoline, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1. This UST was closed in accordance with 20 DCMR § 6100 on or around April 4, 2008.
  - B. A 12,000 gallon tank that was installed in or about December 1, 1993 and that, at all times relevant hereto, routinely contained diesel fuel, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1. This UST was closed in accordance with 20 DCMR § 6100 on or around April 4, 2008.
  - C. A 12,000 gallon tank that was installed in or about December 1, 1993 and that, at all times relevant hereto, routinely contained diesel fuel, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1. This UST was closed in accordance with 20 DCMR § 6100 on or around April 4, 2008.
19. From April 1, 1986 until on or around April 4, 2008 the 6,000 gallon UST at the Southeastern Bus Division Facility has been a “petroleum UST system” and an “existing tank system” as these terms are defined in 20 DCMR § 6889.1.
20. From December 1, 1993 until on or around April 4, 2008, the two 12,000 gallon USTs at the Southeastern Bus Division Facility have been “petroleum UST systems” and “new tank systems” as these terms are defined in 20 DCMR § 6889.1.
21. The USTs at the Southeastern Bus Division Facility are and were, at all times relevant to this CAFO, used to store “regulated substance(s),” as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7) and 20 DCMR § 6889.1.

Southeastern Bus Division  
Northern Bus Division  
Western Division  
Bladensburg Garage  
Four Mile Run Bus Garage

22. At the time of the December 11 and 12, 2006 CEI, and at all times relevant hereto, five (5) USTs, as described in the following subparagraphs, were located at the Northern Bus Division Facility:
- A. A 6,000 gallon tank that was installed in or about January 1, 1984 and that, at all times relevant hereto, routinely contained motor oil, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1.
  - B. Three (3) 20,000 gallon tanks that were installed in or about April 1, 1989 and that, at all times relevant hereto, routinely contained diesel fuel, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1.
  - C. An 8,000 gallon tank that was installed in or about April 1, 1989 and that, at all times relevant hereto, routinely contained transmission fluid, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1.
23. From April 1, 1984 until the date of this CAFO, the 6,000 gallon UST at the Northern Bus Division Facility has been “petroleum UST system” and an “existing tank system” as these terms are defined in 20 DCMR § 6889.1
24. From April 1, 1989 until the date of this CAFO, the three (3) 20,000 gallon USTs and the 8,000 gallon UST at the Northern Bus Division Facility have been “petroleum UST systems” and “existing tank systems” as these terms are defined in 20 DCMR § 6889.1
25. The USTs at the Northern Bus Division Facility are and were, at all times relevant to this CAFO, used to store “regulated substance(s)” at Respondent’s Northern Bus Division Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7) and 20 DCMR § 6889.1.
26. At the time of the February 6, 2007 CEI, and at all times relevant hereto, five (5) USTs, as described in the following subparagraphs, were located at the Western Bus Division Facility:
- A. A 4,000 gallon tank that was installed in or about April 1, 1993 and that, at all times relevant hereto, routinely contained gasoline, a “regulated

**IMO Washington Metropolitan Area Transit Authority**

Southeastern Bus Division  
Northern Bus Division  
Western Division  
Bladensburg Garage  
Four Mile Run Bus Garage

**RCRA-03-2009-0018**

- substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1.
- B. Two (2) 20,000 gallon tanks that were installed in or about April 1, 1983 and that, at all times relevant hereto, routinely contained diesel fuel, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1.
  - C. A 20,000 gallon tank that was installed in or about April 1, 1983 and that, at all times relevant hereto, routinely contained antifreeze, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1.
  - D. A 6,000 gallon tank that was installed in or about April 1, 1983 and that, at all times relevant hereto, routinely contained motor oil, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1.
27. From April 1, 1983 until the date of this CAFO, the USTs at the Western Bus Division Facility have been “petroleum UST systems” and “existing tank systems” as these terms are defined in 20 DCMR § 6889.1.
28. The USTs at the Western Bus Division Facility are and were, at all times relevant to this CAFO, used to store “regulated substance(s)” at Respondent’s Western Bus Division Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1.
29. At the time of the April 24, 2007 CEI, and at all times relevant hereto, ten (10) USTs, as described in the following subparagraphs, were located at the Bladensburg Garage Facility:
- A. A 10,000 gallon tank that was installed in or about March 1, 1995 and that, at all times relevant hereto, routinely contained motor oil, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1.
  - B. A 10,000 gallon tank that was installed in or about March 1, 1995 and that, at all times relevant hereto, routinely contained antifreeze, a “regulated

**IMO Washington Metropolitan Area Transit Authority**

Southeastern Bus Division  
Northern Bus Division  
Western Division  
Bladensburg Garage  
Four Mile Run Bus Garage

**RCRA-03-2009-0018**

substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1.

- C. A 6,000 gallon tank that was installed in or about March 1, 1995 and that, at all times relevant hereto, routinely contained used oil, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1.
- D. A 10,000 gallon tank that was installed in or about March 1, 1995 and that, at all times relevant hereto, routinely contained motor oil, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1.
- E. An 8,000 gallon tank that was installed in or about March 1, 1995 and that, at all times relevant hereto, routinely contained gasoline, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1.
- F. Two (2) 25,000 gallon tanks that were installed in or about January 1, 1996 and that, at all times relevant hereto, routinely contained diesel fuel, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1.
- G. A 6,000 gallon tank that was installed in or about January 1, 1996 and that, at all times relevant hereto, routinely contained transmission fluid, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1.
- H. A 2,500 gallon tank that was installed in or about January 1, 1996 and that, at all times relevant hereto, routinely contained transmission fluid, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1.
- I. A 2,500 gallon tank that was installed in or about January 1, 1996 and that, at all times relevant hereto, routinely contained diesel fuel, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6889.1.



**IMO Washington Metropolitan Area Transit Authority**

Southeastern Bus Division  
Northern Bus Division  
Western Division  
Bladensburg Garage  
Four Mile Run Bus Garage

**RCRA-03-2009-0018**

30. From March 1, 1995, for the USTs described in Paragraph 29.A - E, above, and from January 1, 1996 for the USTs described in Paragraphs 29.F - I above, until the date on which Complainant signed this Consent Agreement, the USTs at the Bladensburg Garage Facility have been "petroleum UST systems" and "new tank systems" as these terms are defined in 20 DCMR § 6889.1.
31. The USTs at the Bladensburg Garage Facility are and were, at all times relevant to this CAFO, used to store "regulated substance(s)" at Respondent's Bladensburg Garage Facility, as defined in Section 9001(7), of RCRA, 42 U.S.C. § 6991(7) and 20 DCMR § 6889.1.
32. At the time of the March 28, 1008 CEI, and at all times relevant hereto, seven (7) USTs, as described in the following subparagraphs, were located at the Four Mile Run Bus Garage Facility:
  - A. Two 20,000 gallon tanks that were installed in or about March 1, 1995 and that, at all times relevant hereto, routinely contained diesel fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580.10.
  - B. A 10,000 gallon tank that was installed in or about April 1, 1995 and that, at all times relevant hereto, routinely contained gasoline, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580.10.
  - C. A 10,000 gallon tank that was installed in or about April 1, 1995 and that, at all times relevant hereto, routinely contained motor oil, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580.10.
  - D. A 2,500 gallon tank that was installed in or about April 1, 1995 and that, at all times relevant hereto, routinely contained transmission fluid, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580.10.
  - E. A 1,000 gallon tank that was installed in or about February 1, 1995 and that, at all times relevant hereto, routinely contained antifreeze, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C.

§ 6991(7), and 9 VAC 25-580.10.

F. A 6,500 gallon tank that was installed in or about February 1, 1995 and that, at all times relevant hereto, routinely contained waste oil, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580.10.

33. From March 1, 1995, (for the USTs described in Paragraph 32.A, above), from April 1, 1995 (for the USTs described in Paragraphs 32.B - D, above), and from February 1, 1995 (for the USTs described in Paragraphs 32.E - F, above), until the date on which Complainant signed this Consent Agreement, the USTs at the Four Mile Run Bus Garage Facility have been “petroleum UST systems” and “new tank systems” as these terms are defined in 9 VAC 25-580.10.
34. The USTs at the Four Mile Run Bus Garage Facility are and were, at all times relevant to this CAFO, used to store “regulated substance(s)” at Respondent’s Four Mile Run Bus Garage Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7) and 9 VAC 25-580.10.
35. On February 27, 2007, EPA sent an Information Request letter to Respondent, pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d, to which Respondent submitted information and responses.

**COUNT I**

**(Southeastern Bus Division - Failure to Provide Release Detection for Underground Piping)**

36. The allegations of Paragraphs 1 through 35, above, are incorporated herein by reference as though fully set forth.
37. 20 DCMR § 6004.2 requires that underground piping that conveys regulated substances under pressure shall be equipped with an automatic line leak detector in accordance with 20 DCMR § 6013.2.
38. From December 12, 2006 through March 9, 2007, WMATA did not provide line release detection for the pressurized underground piping associated with a 12,000 gallon UST containing diesel fuel at the Southern Bus Division Facility.
39. Respondent’s failure to provide line release detection for the pressurized underground

pipng associated with a 12,000 gallon UST containing diesel fuel at the Southern Bus Division Facility as required by 20 DCMR § 6004.2 for the time from period December 11, 2006 through March 9, 2007 is a violation of 20 DCMR § 6004.2, for which penalties may be assessed pursuant to RCRA § 9006, 42 U.S.C. § 6991e.

**COUNT II**

**(Southeastern Bus Division - Failure to Provide an Adequate Line Leak Detector System for Underground Piping)**

40. The allegations of Paragraphs 1 through 39, above, are incorporated herein by reference as though fully set forth.
41. 20 DCMR § 6013.2 provides that automatic line leak detectors may be used as a method of release detection for piping provided the automatic line leak detector alerts the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm when the automatic line leak detector detects a leak of three gallons per hour at ten pounds per square inch within one hour.
42. On December 2, 2006, December 9, 2006 and on December 11, 2006, the dispenser for the two 12,000 USTs containing diesel fuel at the Southeastern Bus Division Facility was left on, thereby preventing the operation of the automatic line leak detector for the piping associated with these USTs, in violation of 20 DCMR § 6013.2.
43. Respondent's use of automatic line leak detectors that did not perform as required by 20 DCMR § 6013.2 on December 2, 2006, December 9, 2006 and on December 11, 2006 for the underground piping associated with the two 12,000 USTs containing diesel fuel at the Southeastern Bus Division Facility is a violation of 20 DCMR § 6013.2 for which penalties may be assessed pursuant to RCRA § 9006, 42 U.S.C. § 6991e.

**COUNT III**

**(Northern Bus Division - Failure to Provide Release Detection for Underground Piping)**

44. The allegations of Paragraphs 1 through 43, above, are incorporated herein by reference as though fully set forth.
45. From April 1, 2003 through December 11, 2006, the design of the pressurized

underground piping associated with the USTs at the Northern Bus Facility was incompatible with the release detection method employed at the Northern Bus Facility for the underground piping, and therefore, WMATA did not provide line release detection for the pressurized underground piping associated with the USTs containing regulated substances at the Northern Bus Division Facility.

46. Respondent's failure to provide line release detection for the pressurized underground piping associated with the USTs containing regulated substances at the Northern Bus Division Facility as required by 20 DCMR § 6004.2 for the time from period April 1, 2003 through December 11, 2006 is a violation of 20 DCMR § 6004.2, for which penalties may be assessed pursuant to RCRA § 9006, 42 U.S.C. § 6991e.

**COUNT IV**

**(Western Bus Division - Failure to Provide Release Detection for Tanks)**

47. The allegations of Paragraphs 1 through 46, above, are incorporated herein by reference as though fully set forth.
48. 20 DCMR § 6003.1 requires owners and operators of petroleum UST systems to provide release detection for the USTs in accordance with 20 DCMR § 6003.
49. 20 DCMR § 6003.2 provides that at least once every thirty (30) days, with exceptions not applicable here, all tanks shall be monitored for releases using one of the methods listed in 20 DCMR § 6008 through 6012.
50. WMATA failed to utilize a valid release detection method as required by 20 DCMR § 6003.1 and .2 at the Western Bus Division Facility for the following:
- A. For the 4,000 gallon gasoline UST from December 22, 2006 through February 28, 2007; and
  - B. For the 20,000 gallon antifreeze UST and the 20,000 gallon diesel UST from December 22, 2006 through February 28, 2007; and
  - C. For the two 20,000 gallon diesel USTs from April 1, 2003 to November 13, 2003 and from February 9, 2004 to February 7, 2007; and
  - D. For the 6,000 gallon motor oil UST from April 1, 2003 to November 27,

2006.

51. Respondent's failure to utilize a valid release detection method as described in Paragraph 50, above, as required by 20 DCMR § 6003.1 and .2, is a violation of 20 DCMR § 6003.1 and .2, for which penalties may be assessed pursuant to RCRA § 9006, 42 U.S.C. § 6991e.

**COUNT V**

**(Western Bus Division - Failure to Perform Annual Test of Line Leak Detectors)**

52. The allegations of Paragraphs 1 through 51, above, are incorporated herein by reference as though fully set forth.
53. WMATA did not perform an annual test of the line leak detector for the USTs at the Western Bus Division Facility during the years 2003 through 2006.
54. Respondent's failure to perform an annual test of the automatic line leak detector used as a release detection method for the USTs at the Western Bus Division Facility as required by 20 DCMR § 6013.2 for the years 2003 through 2006 is a violation of 20 DCMR § 6013.2, for which penalties may be assessed pursuant to RCRA § 9006, 42 U.S.C. § 6991e.

**COUNT VI**

**(Bladensburg Garage - Failure to Provide Release Detection)**

55. The allegations of Paragraphs 1 through 54, above, are incorporated herein by reference as though fully set forth.
56. WMATA failed to utilize a valid release detection method as required by 20 DCMR § 6003.1 and .2 for one of the 25,000 gallon diesel USTs at the Bladensburg Garage Facility from March 25, 2003 through November 26, 2003, December 26, 2004 through March 25, 2005, October 25, 2005 through November 12, 2005 and December 13, 2005 through November 24, 2006.
57. WMATA failed to utilize a valid release detection method as required by 20 DCMR § 6003.1 and .2 for the other 25,000 gallon diesel UST at the Bladensburg Garage Facility from March 25, 2003 through November 26, 2003, December 26, 2004 through March 25, 2005, October 25, 2005 through November 12, 2005, December 13, 2005 through November 28, 2006.

58. WMATA failed to utilize a valid release detection method as required by 20 DCMR § 6003.1 and .2 for the 6,000 gallon transmission oil UST at the Bladensburg Garage Facility from March 26, 2003 through November 29, 2003, February 13, 2005 through March 25, 2005, October 25, 2005 through November 12, 2005 and December 13, 2005 through November 13, 2006.
59. Respondent's failure to utilize a valid release detection method as described in Paragraphs 56, 57, and 58 above, as required by 20 DCMR § 6003.1 and .2, is a violation of 20 DCMR § 6003.1 and .2, for which penalties may be assessed pursuant to RCRA § 9006, 42 U.S.C. § 6991e.

**COUNT VII**

**(Bladensburg Garage - Failure to Provide Release Detection)**

60. The allegations of Paragraphs 1 through 59, above, are incorporated herein by reference as though fully set forth.
61. WMATA failed to utilize a valid release detection method as required by 20 DCMR § 6003.1 and .2 for the 2,500 gallon automatic transmission fluid ("ATF") UST at the Bladensburg Garage Facility from April 23, 2003 through July 30, 2003, March 21, 2004 through April 28, 2004, November 27, 2004 through January 20, 2005, February 28, 2005 through March 28, 2005, June 1, 2005 through August 30, 2005, and February 22, 2007 through March 20, 2007.
62. WMATA failed to utilize a valid release detection method as required by 20 DCMR § 6003.1 and .2 for the 2,500 gallon diesel UST at the Bladensburg Garage Facility from April 24, 2003 through July 30, 2003, March 21, 2004 through April 28, 2004, and November 27, 2004 through January 17, 2005.
63. Respondent's failure to utilize a valid release detection method as described in Paragraphs 61 and 62, above, as required by 20 DCMR § 6003.1 and .2, is a violation of 20 DCMR § 6003.1 and .2, for which penalties may be assessed pursuant to RCRA § 9006, 42 U.S.C. § 6991e.

**COUNT VIII**

**(Bladensburg Garage - Failure to Perform Annual Test of Line Leak Detectors)**

64. The allegations of Paragraphs 1 through 63, above, are incorporated herein by reference as though fully set forth.
65. WMATA did not perform an annual test of the line leak detector for the 10,000 gallon antifreeze UST at the Bladensburg Garage Facility during the years 2003 through 2006.
66. Respondent's failure to perform an annual test of the automatic line leak detector used as a release detection method for the 10,000 gallon antifreeze USTs at the Bladensburg Garage Facility as required by 20 DCMR § 6013.2 during the years 2003 through 2006 is a violation of 20 DCMR § 6013.2, for which penalties may be assessed pursuant to RCRA § 9006, 42 U.S.C. § 6991e.

**COUNT IX**

**(Bladensburg Garage - Failure to Provide an Adequate Line Leak Detector System for Underground Piping)**

67. The allegations of Paragraphs 1 through 66, above, are incorporated herein by reference as though fully set forth.
68. 20 DCMR § 6013.2 provides that automatic line leak detectors may be used as a method of release detection for piping provided the automatic line leak detector alerts the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm when the automatic line leak detector detects a leak of three gallons per hour at ten pounds per square inch within one hour.
69. From April 1, 2005 until October 31, 2007, the automatic line leak detectors for the two 25,000 gallon diesel USTs at the Bladensburg Garage Facility were improperly installed and did not function as required by 20 DCMR § 6013.2.
70. Respondent's use of automatic line leak detectors that did not perform as required by 20 DCMR § 6013.2 from April 1, 2005 until October 31, 2007 for the underground piping associated with the two 25,000 gallon USTs containing diesel fuel at the Bladensburg Garage Facility is a violation of 20 DCMR § 6013.2 for which penalties may be assessed pursuant to RCRA § 9006, 42 U.S.C. § 6991e.

**COUNT X**

**(Four Mile Run Bus Garage - Failure to Provide Release Detection for Tanks)**

71. The allegations of Paragraphs 1 through 70, above, are incorporated herein by reference as though fully set forth.
72. 9 VAC 25-580-140(1) requires, with exceptions not applicable here, that petroleum USTs be monitored at least every 30 days for releases using one of the methods listed in 9 VAC 25-580-160.
73. Respondent uses automatic tank gauging, a method listed in 9 VAC 26-580-160, to monitor releases from for the two 20,000 gallon USTs containing diesel fuel at the Four Mile Run Bus Garage Facility.
74. From March 2, 2007 through May 8, 2007, WMATA did not perform automatic tank gauging, or any other valid method of release detection, for the two 20,000 gallon USTs containing diesel fuel at the Four Mile Run Bus Garage Facility.
75. Respondent's failure to perform release detection for the two 20,000 gallon USTs containing diesel fuel at the Four Mile Run Bus Garage Facility as required by 9 VAC 25-580-140(1) for the time from period March 2, 2007 through May 8, 2007, is a violation of 9 VAC 25-580-140(1), for which penalties may be assessed pursuant to RCRA § 9006, 42 U.S.C. § 6991e.

**COUNT XI**

**(Four Mile Run Bus Garage - Failure to Have Spill Prevention Equipment)**

76. The allegations of Paragraphs 1 through 75, above, are incorporated herein by reference as though fully set forth.
77. 9 VAC 25-580-50 provides, with exceptions not relevant to this matter, that owners and operators of new UST systems must use spill prevention equipment that will prevent a release of product into the environment when the transfer hose is detached from the UST fill pipe.
78. On the date of the CEI, a 20,000 gallon UST located at the Four Mile Run Bus Garage Facility that contained diesel fuel did not have spill prevention as required by 9 VAC 25-



580-50 because the spill bucket was broken.

79. Respondent's failure to have adequate spill prevention equipment for a 20,000 gallon UST containing diesel fuel at the Four Mile Run Bus Garage Facility as required by 9 VAC 25-580-50 on March 28, 2008 is a violation of 9 VAC 25-580-50, for which penalties may be assessed pursuant to RCRA § 9006, 42 U.S.C. § 6991e.

### **III. COMPLIANCE TASKS**

Pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, Respondent is hereby ordered to complete the following Compliance Tasks. Respondent shall submit to EPA a certification in the form set forth in Paragraph 86 that the Compliance Order has been implemented, the Compliance Task completed, and Respondent is currently in compliance with RCRA Subtitle I requirements no later than July 10, 2009.

80. At all times after the effective date of this CAFO, comply with the requirements of 20 DCMR § 6004.2 at the Northern Bus Division Facility.
81. No later than January 31, 2009, ensure that the automatic line leak detectors at the Northern Bus Division comply with the requirement contained in 20 DCMR § 6013.2 that automatic line leak detectors alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm if the automatic line leak detector detects a leak of three gallons per hour at ten pounds per square inch line pressure within one hour.
82. No later than June 30, 2009, ensure that the automatic line leak detectors at the Bladensburg Garage comply with the requirement contained in 20 DCMR § 6013.2 that automatic line leak detectors alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm if the automatic line leak detector detects a leak of three gallons per hour at ten pounds per square inch line pressure within one hour.
83. At all times after the effective date of this CAFO, comply with the annual testing requirements for the automatic line leak detectors at the Western Bus Division Facility as required by 20 DCMR § 6013.2.
84. At all times after the effective date of this CAFO, provide release detection for the USTs at

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Southeastern Bus Division  
Northern Bus Division  
Western Division  
Bladensburg Garage  
Four Mile Run Bus Garage

**RCRA-03-2009-0018**

the Western Bus Division and Bladensburg Garage Facilities as required by 20 DCMR § 6003 and at the Four Mile Run Bus Garage Facility as required by 9 VAC 25-580-140(1).

- 85. At all times after the effective date of this CAFO, provide spill protection for the 20,000 gallon diesel fuel UST at the Four Mile Run Bus Garage Facility as required by 9 VAC 25-580-50.
- 86. Submissions to EPA: Any notice, certification, data presentation, or other document submitted by a Respondent pursuant to this Consent Agreement which discusses, describes, demonstrates, or supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirements of this Consent Agreement shall be certified, by a "responsible corporate officer" as that terms is defined at 40 C.F.R. § 270.11. The aforesaid certification shall provide the following statement above the signature of the responsible person signing the certification on behalf of a Respondent:

I certify under penalty of law that this document and all attachments are true, accurate and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Any notifications or submissions to EPA required by this Consent Agreement shall be sent to the attention of:

Marie Owens (3LC70)  
RCRA Enforcement and Compliance Officer  
United States Environmental Protection Agency - Region III

1650 Arch Street  
Philadelphia, PA 19103-2029

**IV. SUPPLEMENTAL ENVIRONMENTAL PROJECT**

87. Respondent shall complete the following SEP, which the parties agree is intended to secure significant environmental and/or public health protections. No more than NINETY (90) DAYS after receiving a true and correct copy of this fully executed and effective CAFO, Respondent shall commence the WMATA Advanced Geospatial Petroleum Product Management Project as described in the SEP Statement of Work ("SEP SOW") appended to this Consent Agreement as Attachment A.
88. The SEP SOW (Attachment A) shall be fully implemented within THREE HUNDRED SIXTY FIVE (365) DAYS of the effective date of the CAFO.
89. The total required Actual SEP Expenditures shall not be less than \$107,608. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report described in Paragraph 91.
90. Respondent hereby certifies that, as of the date of its signature to 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, or grant or as injunctive relief in this or any other legal proceeding or in compliance with state or local requirements. Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP or any portion thereof.
91. Respondent shall submit a SEP Completion Report to EPA no later than FOUR HUNDRED FIFTY- FIVE (455) DAYS of the effective date of this CAFO. The SEP Completion Report shall contain the following information:
  - (i) A detailed description of the SEP as implemented, describing how the SEP has fulfilled all the requirements described in the SEP SOW;
  - (ii) A description of any operating problems encountered and the solutions utilized by Respondent to address such problems;

- (iii) An itemization of costs incurred in implementing the SEP. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all Actual SEP Expenditures as provided by Paragraph 92. Where the SEP Completion Report includes costs incurred by Respondent not eligible for SEP credit, such costs must be clearly identified in the SEP Completion Report as ineligible for SEP credit. For purposes of this Paragraph, "Actual SEP Expenditures" shall include the costs for the design, development, installation and implementation of the WMATA Advanced Geospatial Petroleum Product Management SEP as specified in the SEP SOW;
  - (iv) Certification in accordance with Paragraph 86 of this CAFO that the SEP has been fully implemented pursuant to the provisions of this CAFO; and
  - (v) A description and a quantitative and qualitative estimation of the environmental and public health benefits resulting from implementation of the SEP.
92. In itemizing the costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all Actual SEP Expenditures. For purposes of this Paragraph, "acceptable documentation" for itemizing Actual SEP Expenditures includes invoices, purchase orders, canceled checks, or other documentation that specifically identifies and itemizes the Actual SEP Expenditures for the goods and/or services for which payment is being made by Respondent. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual cost of the goods and/or services for which payment is being made.
93. EPA may inspect any location listed in the SEP SOW at any time to confirm that the SEP is being undertaken in conformity with the specification referenced herein.
94. Respondent shall maintain for inspection by EPA the original records pertaining to Actual SEP Expenditures incurred in implementing the SEP, such as purchase orders, receipts, and/or canceled checks, for a period of one year following EPA's issuance of a "Letter of Remittance Upon Satisfaction of Settlement Conditions" for the SEP as provided in Section IX of this CAFO. Respondent shall also maintain non-financial records, such as work orders and work reports, documenting the actual implementation and/or performance of the SEP for a period of one year following EPA's issuance of a Letter Remittance Upon Satisfaction of Settlement Conditions for the SEP as provided in Section IX of this CAFO. In all documents and reports, including without limitation, any SEP report, submitted to EPA pursuant to this CAFO Respondent shall, by a responsible officer in charge of the

implementation of the SEP, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and complete in accordance with Paragraph 86 of this CAFO.

95. Following receipt of the SEP Completion Report described in Paragraph 91, above, EPA will do one of the following:
- A. Notify Respondent in writing of any deficiency in the SEP Completion Report itself (“Notice of Deficiency”) and grant an additional THIRTY (30) DAYS for Respondent to correct the deficiency;
  - B. Notify Respondent in writing fo EPA’s determination that the project has been completed satisfactorily (“Notice of Approval”); or
  - C. Notify Respondent in writing that the project has not been completed satisfactorily (“Notice of Disapproval”), in which case, EPA may seek stipulated penalties in accordance with Section VI herein.
96. Respondent agrees to comply with any requirements imposed by EPA as a result of any failure to comply with the terms of this CAFO. If EPA, in its sole discretion and after completion of the Dispute Resolution Process set forth in Section V of this CAFO, if applicable, determines that the SEP and/or any report due pursuant to this CAFO has not been completed as set forth herein, stipulated penalties shall be due and payable by Respondent to EPA in accordance with Section VI herein.

## **V. DISPUTE RESOLUTION**

97. If EPA issues a written Notice of Disapproval rejecting a SEP Completion Report pursuant to Paragraph 95, above, EPA shall grant Respondent the opportunity to object in writing to such notification of disapproval within twenty (20) days of receipt of EPA’s notification. EPA and Respondent shall have an additional (30) days from the receipt by the EPA of the objection by Respondent to resolve and reach an agreement on the matter in dispute. If an agreement cannot be reached within such thirty (30) day period, EPA shall provide to Respondent a written Statement of Decision ands the rationale therefor.
98. In the event EPA determines after the expiration of the aforesaid 30-day dispute resolution period that a SEP has not been completed as specified herein or has issued a written Notice of Disapproval for which a timely objection has not been filed as provided in Paragraph 97,

above, stipulated penalties shall be due and payable by Respondent to EPA in accordance with Section VI of this CAFO. The submission of an unacceptable SEP Completion Report shall be the equivalent of the failure to submit a timely SEP Completion Report for the purposes of the stipulated penalty provisions set forth in Section VI, below, except that the calculation of any such stipulated penalties shall not run during the pendency of the dispute resolution procedure set forth in Paragraph 97, above, but shall instead run from the date on which Respondent received EPA's Statement of Decision pursuant to Paragraph 97, above, or, in the event that Respondent has not filed a timely objection to an EPA Notice of Disapproval, the date following the day of expiration of the 30-day dispute resolution period.

#### **VI. STIPULATED PENALTIES**

99. In the event that Respondent fails to comply with any of the terms or conditions of this Consent Agreement relating to the performance of the SEP described in the SOW and/or to the extent that the Actual Expenditures for the SEP do not equal or exceed the amount of Actual SEP Expenditures required to be incurred under Paragraph 89 of this Consent Agreement, Respondent shall be liable for stipulated penalties according to the provisions below:
- A. Except as provided in subparagraph (B) immediately below, for a SEP which has not been completed satisfactorily pursuant to this CAFO, Respondent shall pay a stipulated penalty to the United States in the amount of \$107,608.00
- B. If the SEP is not completed in accordance with Section IV, but the Complainant determines that Respondent: (i) had made good faith and timely efforts to complete the project; and (ii) has certified, with supporting documentation, that at least 95% of the Actual SEP Expenditures required to be incurred under Paragraph 89 of this Consent Agreement were expended on the SEP, Respondent shall not be liable for any stipulated penalty;
- C. If the SEP is completed in accordance with Section IV, but the Respondent spent less than ninety percent (90%) of the amount of the Actual SEP Expenditures required to be incurred under Paragraph 89 of this Consent Agreement, Respondent shall pay as an additional penalty the difference in the amount of the proposed penalty that was mitigated on account for Respondent's performance of the SEP (*i.e.*, \$107,608.00) and the amount spent by Respondent to complete the SEP calculated as follows:

\$107,608 (“minus”) the Actual SEP Expenditures = (“equals”) Stipulated Penalty.

D. If the SEP is completed in accordance with Section IV, and the Respondent spent at least 90% of the Actual SEP Expenditures required to be incurred under Paragraph 89 of this Consent Agreement, Respondent shall not be liable for any stipulated penalty;

E. For failure to submit the SEP Completion Report required by Paragraph 91, above, Respondent shall pay a stipulated penalty of \$200.00 for each day after the deadline set forth in Paragraph 91 until the report is submitted.

100. The determination of whether the SEP has been satisfactorily completed and whether Respondent has made a good faith timely effort to implement the SEP shall be within the sole discretion of EPA after completion of the Dispute Resolution process set forth above in Section V of this CAFO, if applicable.
101. Stipulated penalties for subparagraph 99.E, above, shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.
102. Respondent shall pay stipulated penalties within FIFTEEN (15) DAYS after receipt of written demand by EPA for such penalties. The method of payment shall be in accordance with Section X.
103. Nothing in this CAFO 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 Consent Agreement or of the statutes and regulations upon which this agreement is based, or for Respondent’s violation of any applicable provision of law.

**VII. LANGUAGE TO BE INCLUDED IN PUBLIC STATEMENTS**

104. In any public statement referring to this SEP, Respondent shall include language that the SEP was undertaken in connection with a settlement of an enforcement action taken by EPA. This Paragraph does not compel Respondent to make any public statement concerning the implementation of the SEP.

**VIII. PROVISIONS IN EVENT OF DELAY OR ANTICIPATED DELAY**

105. If any event occurs which causes or may cause delays in the completion of the SEP as

Southeastern Bus Division  
Northern Bus Division  
Western Division  
Bladensburg Garage  
Four Mile Run Bus Garage

TEN (10) DAYS after the delay or when Respondent knew or should have known 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 minimize the delay, and the timetable by which those measures shall 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 or no effect as to the particular incident involved and constitute a waiver of the Respondent's right to seek an extension of the time for performance of its obligations under this CAFO.

106. If the Parties agree that the delay or anticipated delay in compliance with this CAFO has been or will be caused by circumstances entirely beyond the control of Respondent which could not be overcome by due diligence, the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event the Parties shall stipulate to such extension of time.
107. In the event that EPA does not agree that the delay in achieving compliance with this CAFO has been or will be caused by circumstances entirely beyond the control of Respondent which could not be overcome by due diligence, EPA will notify Respondent in writing of its decision and any delays in the completion of the SEP shall not be excused.
108. The burden of proving that any delay is caused by circumstances entirely beyond the control of Respondent which could not be overcome by due diligence shall rest with the Respondent. Increased costs or expenses associated with the implementation of actions called for by this CAFO shall not, in any event be a basis for changes in this CAFO or extensions of time under Paragraph 106 of this CAFO. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of a subsequent step.

#### **IX. SATISFACTION OF SETTLEMENT CONDITIONS**

109. A determination of compliance with the conditions set forth herein will be based upon, *inter alia*, copies of records and reports submitted by Respondent to EPA under this CAFO and any inspections of work performed under the SEP that EPA reasonably determines are necessary to evaluate compliance. Respondent is aware that the submission of false or misleading information to the United States government may subject it to separate civil and/or criminal liability. Complainant reserves the right to seek and obtain appropriate relief if Complainant obtains evidence that the information provided and/or representations



Southeastern Bus Division  
Northern Bus Division  
Western Division  
Bladensburg Garage  
Four Mile Run Bus Garage

relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to Complainant regarding the matters at issue in the Factual Allegations and Conclusions of Law are false, or in any material respect, inaccurate.

110. If EPA determines that Respondent has complied fully with the conditions set forth herein, EPA, through the Regional Administrator of U.S. EPA - Region III, or his designee, shall promptly issue a Letter of Remittance Upon Satisfaction of Settlement Conditions, which shall state Respondent has performed fully the conditions set forth in this CAFO and paid all the penalty amounts due pursuant to the terms of this CAFO.

#### **X. CIVIL PENALTIES**

111. Respondent shall pay a total civil penalty in the amount of **\$23,502**. The aforesaid settlement amount was based upon Complainant's consideration of 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 applicable requirements as provided in RCRA Section 9006(c), 42 U.S.C. § 6991e(c) and (e) and with EPA's Penalty Guidance for Violations of UST Regulations ("UST Guidance") dated November 4, 1990. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO fully executed by all parties and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO, the civil penalty must be paid no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent.
112. EPA hereby agrees and acknowledges that payment of the civil penalty shall be in full and final satisfaction of all civil claims for penalties for the violations alleged in this CAFO.
113. Respondent shall remit the payment for the civil penalty specified in Paragraph 111, above, payable to United States Treasury, using one of the payment methods set forth below:

**By regular U.S. Postal Service:**

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

***IMO Washington Metropolitan Area Transit Authority***

***RCRA-03-2009-0018***

Southeastern Bus Division  
Northern Bus Division  
Western Division  
Bladensburg Garage  
Four Mile Run Bus Garage

For overnight deliveries, street address:

United States Environmental Protection Agency  
Fines and Penalties  
U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101  
Contact: Natalie Pearson  
314-418-4087

Wire transfers:

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"

Automated Clearing House (ACH) Transfers:

PNC Bank  
ABA = 051036706  
Transaction Code 22 -checking  
Account 310006  
CTX Format  
Environmental Protection Agency  
808 17th Street NW  
Washington, D.C. 20074  
Contact: Jesse White 301-887-6548

On-Line Payment:

[www.pay.gov](http://www.pay.gov)

Enter sfo 1.1 in the search field, open form and complete the required fields

114. All payments by a Respondent shall reference such Respondent's name and address and the Docket Number of this action (RCRA-03-2009-0018).

**IMO Washington Metropolitan Area Transit Authority**  
Southeastern Bus Division  
Northern Bus Division  
Western Division  
Bladensburg Garage  
Four Mile Run Bus Garage

**RCRA-03-2009-0018**

115. At the time of payment, Respondent shall send a notice of such payment, including a copy of any check or electronic transfer, as appropriate, to:

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

and

Joyce A. Howell  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region III (Mail Code 3WC31)  
1650 Arch Street  
Philadelphia, PA 19103-2029

116. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.
117. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment as specified in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
118. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
119. The costs of the Agency's administrative handling of overdue debts will be charged and

assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

120. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

#### **XI. RESERVATION OF RIGHTS**

121. 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 public health, 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 the Consolidated Rules of Practice at 40 C.F.R. § 22.18(c). Further, EPA reserves any rights or remedies available under RCRA, the regulations promulgated thereunder, and any other federal laws and regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

#### **XII. OTHER APPLICABLE LAWS**

122. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

#### **XIII. PARTIES BOUND**

123. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and/or directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of each Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind such Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

Southeastern Bus Division  
Northern Bus Division  
Western Division  
Bladensburg Garage  
Four Mile Run Bus Garage

**XIV. FULL AND FINAL SATISFACTION**

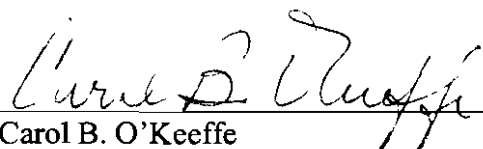
124. Full payment of the civil penalty set forth in Paragraph 111 of this Consent Agreement, above, shall resolve only Respondent's liability for federal civil penalties for the specific violations of RCRA Subtitle I, the District of Columbia Authorized UST Management Program and the Commonwealth of Virginia Authorized UST Management Program alleged herein.

**XV. EFFECTIVE DATE**

125. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Judicial Officer or Regional Administrator.

For Respondent, Washington Metropolitan Area Transit Authority:

Date: 1/17/08

By:   
Carol B. O'Keeffe  
General Counsel

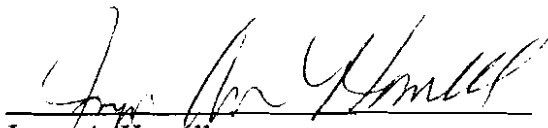
**IMO Washington Metropolitan Area Transit Authority**

Southeastern Bus Division  
Northern Bus Division  
Western Division  
Bladensburg Garage  
Four Mile Run Bus Garage

**RCRA-03-2009-0018**

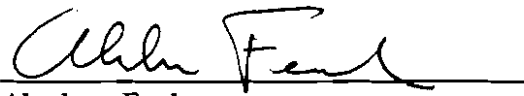
For Complainant, United States Environmental Protection Agency, Region III:

Date: 11/21/08

By:   
Joyce A. Howell  
Senior Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Director, Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

11/25/08  
Date

By:   
Abraham Ferdas  
Director  
Land and Chemicals Division

**BEFORE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103**

**In the Matter of:**

Washington Metropolitan Area  
Transit Authority  
600 Fifth Street, N.W.  
Washington, D.C. 20001

**RESPONDENT**

Southeastern Bus Division  
17 M Street SE  
Washington, DC 20003

Northern Bus Division  
4615 14<sup>th</sup> Street NW  
Washington, DC 20003

Western Division  
5230 Wisconsin Avenue NW  
Washington, DC 20017

Bladensburg Garage  
2250 & 2251 20<sup>th</sup> St. NE  
Washington, DC. 20009

Four Mile Run Bus Garage  
3501 South Glebe Road  
Arlington, Virginia 22202

**FACILITIES**

**Docket No. RCRA-03-2009-0018**

**FINAL ORDER**

Complainant, the Director, Land and Chemicals Division, U.S. Environmental

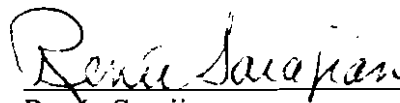
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Protection Agency, Region III, and Respondent, the Washington Metropolitan Area Transit Authority, have executed a document entitled "Consent Agreement" which I hereby ratify in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. 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.

NOW, THEREFORE, PURSUANT TO the Consolidated Rules of Practice, and based on the representations in the Consent Agreement, having determined that the penalty agreed to in the Consent Agreement is based on a consideration of the factors set forth in Section 9006(c) and (e) of RCRA, 42 U.S.C. § 6991e(c) and (e), it is hereby ordered that Respondent pay \$23,502.00 in accordance with the Consent Agreement and comply with the terms and conditions of this Consent Agreement.

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

12/11/08  
Date

  
\_\_\_\_\_  
Renee Sarajian  
Regional Judicial Officer



# **ATTACHMENT A**

## **WMATA Advanced Geospatial Petroleum Product Management A Supplemental Environmental Project**

**Prepared for the  
U.S. Environmental Protection Agency (EPA)**

**Washington Area Transportation Authority (WMATA)**

**Department of System Safety and Risk Management  
Environmental Management and Industrial Hygiene**

**May 8, 2008**

# **SUPPLEMENTAL ENVIRONMENTAL PROJECT**

## **1.0 Background**

The Washington Area Metropolitan Transit Authority (WMATA) operates the rail and bus transit systems and administrative and maintenance facilities across the region which includes the District of Columbia, Maryland and Virginia. Petroleum and related products are stored in over 200 tank systems, both aboveground (ASTs) and underground (USTs), and include: diesel fuel, gasoline, engine oil, heating oil, and transmission fluid. WMATA seeks to develop an improved management approach of these tank systems to improve efficiency.

WMATA will accomplish this by building a geospatially-based system that will be used to assist in the management and compliance of its ASTs and USTs containing petroleum and related products managed through WMATA. To accomplish this, WMATA will capture spatial data related to petroleum products stored in ASTs and USTs and to build a strong set of database layers for the bus and rail maintenance facilities. Given the distributed nature and number of tanks throughout the WMATA system, a geospatially-based management system provides a powerful and adaptive tool for a broad range of tank management activities. An effective field and record data capture approach will be developed into a geodatabase, coupled with a petroleum products database that can be expanded into a Geospatial Environmental Information Management System (GEIMS).

## **2.0 Project Overview**

WMATA has a unique opportunity to create and apply an advanced geospatially-based petroleum product management approach to better manage the AST/UST inventory at all WMATA facilities. The project involves six major activities: (1) development of a logical, integrated tanks management framework; (2) implementation of an effective field data collection, inspection, and data management approach; (3) design, development, testing, and population of the tank (ASTs and USTs) database in MS ACCESS with query and reporting capability; (4) design, build, implementation, and testing of a series of tank and related data layers and geodatabase attributes with spatial query and reporting capabilities; and, (5) demonstration of the system. At the completion of the project, WMATA will integrate the system into its environmental management system.

Development and application of the advanced geospatially-based petroleum product management approach provides the following benefits:

- Focuses on design and creation of a dedicated AST/UST database;
- Creates long-term tank inspection, maintenance, and management tracking and alert capability;
- Integrates data for use with existing software applications; and
- Improves the effectiveness of field data collection, documentation, quality assurance, storage, and management.

## **3.0 Objectives**

The project has the following overall objectives:

- Develop a detailed management framework for long-term management of WMATA's AST and UST systems.
- Develop and implement a tool which can access and input data from a centralized database for each WMATA AST and UST.
- Create a database in MS ACCESS for ASTs and USTs capable of accepting and managing ongoing field data collection, data analysis and queries, and provides ability for data to be utilized with WMATA's existing asset management (inventory control) systems.
- Develop the WMATA geospatially-based environmental tank management system to include ASTs and USTs.

## **4.0 Project Tasks**

### **4.1 Task 1: Management Framework Development**

The project team will design a detailed tank management framework that integrates field data collection, a dedicated tank database, geospatial data layers and spatial visualization capabilities, and a tank tracking and scheduling tool. Development of the framework requires the incorporation of current regulatory requirements and best management practices and the identification of other appropriate information for long-term management. The framework will specify the appropriate data (both regulatory and management), procedures for data capture and management, tank database, and tracking components.

This task will also include regular working meetings and project status meetings to ensure that the project proceeds smoothly and provides a forum for identifying other unique opportunities to better manage WMATA's storage tank systems.

### **4.2 Task 2: Field Data Collection and Management**

The project team will collect and assemble the data related to each AST, and UST. The information gathered in this effort will be used to create and populate the database created under Task 3. The data to be included in the database will include, but is not limited to tank inspections, tanks and associated piping integrity inspections, maintenance and repair history and regulatory compliance information. In addition, the field collection includes obtaining other data, pertinent documents, and information to include items such as completed third-party tank inspections, construction drawings, operation and maintenance manuals, photographs, testing results, etc.

The collection of the data will be accomplished through mining available resources included in environmental files, contract files, facility consolidated plans, third-party inspection forms, tank registration and certification forms, regulatory offices, etc. and conducting site visits.

This effort will include determining the accurate location of individual tanks through survey, aerial photographs, or GPS methods. The field verification work will also include determining site geometry for tank fields.

### **4.3 Task 3: AST/UST Database Development**

WMATA will develop a database of all petroleum related ASTs and USTs. This will allow for future integration with existing WMATA asset management systems. The database will be built along data fields similar to those used in Maryland's Third-Party *Underground Storage Tank System Compliance and Inspection Report* but tailored for WMATA's needs. Task 3 will also include the preparation of an electronic data entry form for the database. The database development will include the ability to print report(s) to present basic information on all tanks associated with a facility.

### **4.4 Task 4: Petroleum Management Integration**

The project team will design and develop a series of petroleum product storage tank locational data layers, associated data attributes, related photographs and other documentation, and links to field data capture and the tank database. Task 4 includes the following specific activities:

#### ***AST/UST location identification and data layer creation***

The project team will work with staff to identify and access high-resolution, geo-referenced aerial imagery to locate the longitude and latitude of each AST and UST. The results will be incorporated into locational data layers in a GIS (ESRI) shapefile format. The project team will assign unique identification numbers to each tank based on the previously developed WMATA data scheme. Basic static descriptive data attributes will be defined for each tank and entered.

#### ***Related data identification and field capture***

The project team will identify and define other appropriate data elements necessary for long-term tank management. Results of collecting the essential data elements will be used to develop a detailed, idealized tank field view of individual tanks and their key components. At a minimum, the elements include detailed field photographs, locations and identification of tank capacity, product, construction type, installation date, piping type, tank monitoring system, spill containment/prevention, tank manways, fill ports, vents, dispensers, observation wells, etc

#### ***Identification and development of geodatabase attributes***

The project team will develop a geodatabase scheme to include AST/UST data attributes that directly relate to the tank location data elements.

#### ***Creation of tank field-based data layers and geodatabase attributes***

The project team will combine the results of the above tasks to develop two levels of AST/UST data layers. The "bird's-eye-view" data layer will show all ASTs and USTs, by appropriate WMATA product color code for the entire WMATA system. The second, site-level data view will allow the user to zoom into a specific WMATA facility, tank field and/or tank. The detailed view will allow the user to look at locations and layout of tank ports and other key features. All features will be linked to specific geodatabase attributes.

### ***Develop and test links to tank database and related documents***

The project team will use the unique identification code for each tank (assigned in this project) to link the geodatabase directly to the tank database. The result serves to integrate the data to that of the new tank-specific database, allowing further data analysis among multiple WMATA physical assets.

The project team will create a separate, but directly linked, capability within the GIS to allow the user to view site photographs, construction drawings, other nearby utilities, completed field inspection forms, other inspection and maintenance documents, equipment guides, and other documents. Captured data will be stored and linked, as appropriate, to each tank for easy access.

## **4.5 Task 5: System Demonstration and Implementation**

Upon project completion, the project team will successfully prepare for and demonstrate the capabilities of WMATA's advanced geospatially-based AST/UST management approach for ASTs/USTs at WMATA facilities and implement the WMATA advance geospatially-based AST/UST management system.

## 5.0 COST ESTIMATE

Task No.	Task Description	Estimated Cost
1	Management Framework Development	\$13,161
2	Field Data Collection & Data Management	\$37,092
3	AST/UST Database Development	\$16,372
4	GIS AST/UST Management Integration	\$36,412
5	System Demonstration	\$4,606
	<b>Total Cost:</b>	<b>\$107,608</b>

## 6.0 SCHEDULE

See attached MS Project Output. Please note that the schedule is based on a notice to proceed date of April 14, 2008. When the approval and notice to proceed are established, a final schedule will be produced and disseminated.

## 7.0 DELIVERABLES

The following deliverables are anticipated for this project.

- Final Schedule
- GEIMS Framework and Architecture for the geodatabase and fixed field data layers and attributes
- Tank data form
- MS Access AST/UST database
- Other related documents in an organized file structure and usable electronic format (i.e., pdf format)
- Uploaded and linked geodatabase and field layers with attributes into GEIMS

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103

In the Matter of:

Washington Metropolitan Area  
Transit Authority  
600 Fifth Street, N.W.  
Washington, D.C. 20001

RESPONDENT

Southeastern Bus Division  
17 M Street SE  
Washington, D.C. 20003

Northern Bus Division  
4615 14<sup>th</sup> Street NW  
Washington, D.C. 20003

Western Division  
5230 Wisconsin Avenue NW  
Washington, D.C. 20017

Bladensburg Garage  
2250 & 2251 20<sup>th</sup> St. NE  
Washington, D.C. 20018

Four Mile Run Bus Garage  
3501 South Glebe Road  
Arlington, Virginia 22202

FACILITIES

Docket No. RCRA-03-2009-0018

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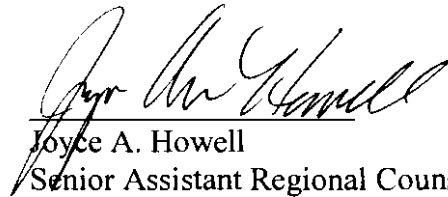
CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent by Federal Express, a copy of the CONSENT AGREEMENT AND FINAL ORDER to the addressee listed below. The original and two copies of the same were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Marc Biondi  
Assistant General Counsel  
Washington Metropolitan Area Transit Authority  
600 Fifth Street, NW  
Washington, DC 20001

Date:

12/12/2008



Joyce A. Howell  
Senior Assistant Regional Counsel  
United States Environmental Protection Agency