

CA, the issuance of the attached Final Order, or the enforcement of the CAFO.

6. 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 Administrator pursuant to RCRA Section 6001(b)(2), 42 U.S.C. § 6961(b)(2).
7. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
8. Respondent shall bear its own costs and attorney's fees.
9. Respondent certifies to EPA by its signature herein that it is presently in compliance with the provisions of RCRA Subtitles I and C and the CWA referenced herein.
10. The provisions of this CAFO shall be binding upon Complainant and Respondent and any successors, assigns, or other entities or persons otherwise bound by law.
11. 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, the CWA, or any regulations promulgated thereunder.

EPA's Findings of Fact and Conclusions of Law

12. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, the State of Maryland has been granted final authorization to administer its hazardous waste management program, set forth at the Code of Maryland Regulations ("COMAR"), Title 10, Subtitle 51 et seq., in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. The State of Maryland Hazardous Waste Management Regulations ("MdHWMR") originally were authorized by EPA on February 11, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b). Revisions to the MdHWMR set forth at COMAR, Title 26, Subtitle 13, were authorized by EPA effective July 31, 2001 and September 24, 2004. The provisions of the revised federally-authorized program have thereby become requirements of RCRA Subtitle C enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
13. Effective June 30, 1992, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the State of Maryland was granted final authorization to administer a state underground storage tank management program ("Maryland Authorized UST Management Program") in lieu of the Federal underground storage tank management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991i.

Through this final authorization the provisions of the Maryland Authorized UST Management Program became requirements of RCRA Subtitle I and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e.

14. 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 Maryland Department of the Environment of EPA's intent to enter into a CAFO with Respondent resolving the RCRA violations set forth herein.
15. Respondent is the owner and operator of the facility located at 3800 Newgate Avenue, Baltimore, Maryland (the "Facility").
16. Respondent is a person within the meaning of:
 - A. Sections 311(a)(7) and 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7) and 1362(5); and
 - B. Sections 1004(15) and 9001(6) of RCRA, 42 U.S.C. §§ 6903(15) and 6991(6).
17. The Facility borders and is adjacent to Patapsco River and Janney Run which are "waters of the United States" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7), 40 C.F.R. § 232.2, and 40 C.F.R. § 122.2.
18. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant from a point source to waters of the United States except in compliance with, among other things, a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
19. An NPDES permit is required for discharges of pollutants, including discharges of storm water associated with "industrial activity." Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and 40 C.F.R. §§ 122.21 and 122.26.
20. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as described in the permit.
21. Maryland Department of the Environment ("MDE") received authorization to administer the NPDES Program in September 1974.
22. MDE issued a National Pollutant Discharge Elimination System Permit No. MD0055824 ("Permit"), to the CNX Facility on October 1, 2003 with an expiration date of September 30, 2008. Because the Respondent submitted a permit renewal application form on March 30, 2006, the permit was administratively extended. The permit was renewed by MDE on February 1, 2011 and is set to expire on January 31, 2016.

23. The CNX NPDES Permit authorizes stormwater discharges only from outfalls identified in the Permit as 002, 003, and 004 and only in accordance with specified effluent limitations.
24. Authorized EPA inspectors conducted inspections of Respondent's Facility on May 20, 2008 and June 17, 2009 ("EPA Inspections").

COUNT I (CWA - Unlawful Discharge of a Pollutants)

25. The allegations contained in Paragraphs 1-24 are re-alleged and incorporated by reference.
26. During the May 2008 inspection, the EPA inspector observed the discharge of stormwater from roadways owned by CNX exiting a pipe entering Janney Run Creek. The discharge was black, turbid and discolored the Creek. The EPA inspector collected and analyzed a sample of stormwater runoff entering Janney Run Creek. The sample collected from this pipe had a Total Suspended Solids (TSS) concentration of 99.0 mg/l.
27. Janney Run Creek discharges to the Patapsco River.
28. Discharges from the pipe to Janney Run Creek are not authorized under the terms of the CNX NPDES Permit.
29. The discharge pipe to Janney Run is a "point source" which "discharged" "pollutants" contained in "storm water" as those terms are defined at Sections 502(16), (14) and (6) of the Act, 33 U.S.C. §§ 1362(16), (14) and (6), and 40 C.F.R. § 122.26(b)(13), respectively, and 40 C.F.R. § 122.2, and at all times relevant to this Consent Agreement and Final Order has "discharged" "pollutants" contained in storm water runoff to Janney Run Creek.
30. Respondent's discharge of pollutants as referenced in Paragraph 26 violated Section 301 of the Act, 33 U.S.C. § 1311, and 40 C.F.R. § 122.26(c)(1).

COUNT II (CWA - Permit Effluent Limit Violations)

31. The allegations contained in Paragraphs 1-30 are re-alleged and incorporated by reference.
32. The CNX NPDES Permit authorizes Respondent to discharge storm water runoff from outfall 002 within certain effluent limitations including that TSS are no greater than 50 mg/l.
33. At the time of the EPA inspection on May 20, 2008, an inspector obtained two storm

water samples of discharges from outfall 002 and analyzed the samples for TSS. The analytical results showed TSS concentrations of 84 mg/l and 88 mg/l in the samples.

34. The average TSS concentration of the two samples was 86 mg/l, which exceeds the permitted limit of 50 mg/l.
35. According to a Facility Discharge Monitoring Report prepared by CNX and dated July 28, 2008, the TSS concentration on that day for outfall 002 was 76 mg/l, which exceeds the permitted limit of 50 mg/l.
36. Respondent's discharges of pollutants as referenced in paragraphs 33, 34, and 35 exceeded the permit effluent limitations contained in the CNX NPDES Permit and therefore, constitute violations of the permit and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

COUNT III (CWA - Failure to Provide Notice Of Permitted Outfall Closure)

37. The allegations contained in Paragraphs 1-36 are re-alleged and incorporated by reference.
38. At the time of the EPA inspection on May 20, 2008, an inspector observed no discharge from outfall 003 and was informed by a CNX employee that outfall 003 had been plugged.
39. Storm water that previously would have passed through outfall 003 was now being managed in a different manner than authorized by the Permit.
40. This change to how the Facility handles its storm water is a process modification requiring notification to MDE pursuant to section II.B.1 of the CNX NPDES Permit.
41. As of the May 20, 2008 EPA's inspection, Respondent had not notified MDE of the process modification.
42. Respondent's failure to notify MDE of the process modification constitutes a violation of the CNX NPDES Permit and Sections 301 of the CWA, 33 U.S.C. §§ 1311.

COUNT IV (RCRA SUBTITLE C - Fluorecent Lamp Storage)

43. The allegations contained in Paragraphs 1-42 of this CAFO are re-alleged and incorporated by reference.
44. Respondent is and has been through the period of the violations alleged herein, the "owner" and "operator" of a "facility" as these terms are defined by COMAR 26.13.01.03B.

45. Respondent is and has been through the period of the violations alleged herein, a “generator” of, and has engaged in the “storage” of, materials that are “solid wastes” and “hazardous waste” at the Facility as those terms are defined in COMAR 26.13.01.03B.
46. Respondent is and, at all times relevant to the violations in this CAFO, has been a conditionally-exempt small-quantity generator of hazardous waste in an amount less than 100 kilograms per month at the Facility.
47. COMAR 26.13.10.15 provides in pertinent part that fluorescent waste lamps be kept in a structurally sound container or package that is kept closed except when adding waste to or removing waste from the container or package.
48. During the EPA Inspection on May 20, 2008, six open boxes of fluorescent waste lamps and sixteen loose fluorescent waste lamps in the Maintenance Shop at the Facility were not in structurally sound containers or packaging that was kept closed.
49. Based on the activities described in Paragraph 48 of this CAFO, above, Respondent violated COMAR 26.13.10.15 by failing to keep fluorescent waste lamps in a structurally sound container or package that is kept closed except when adding waste to or removing waste from the container or package.

COUNT V (RCRA Subtitle C - Universal Waste Lamps Labeling)

50. The allegations contained in Paragraphs 1-49 of this CAFO are re-alleged and incorporated by reference.
51. COMAR 26.13.10.17(A)(2)(e) requires each fluorescent waste lamp and each container or package of fluorescent waste lamps be marked with “Universal Waste-Lamp(s)”, “Waste Lamp(s)”, or “Used Lamp(s)”.
52. At the time of the EPA inspection on May 20, 2008, the EPA inspectors observed an unmarked box of fluorescent waste lamps in the Maintenance Shop.
53. Based on the activities described in Paragraph 52 of this CAFO, above, Respondent violated COMAR Section 26.13.10.17(A)(2)(e) by failing to mark fluorescent waste lamps.

COUNT VI (RCRA Subtitle C- Demonstrate Universal Waste Accumulation Time)

54. The allegations contained in Paragraphs 1-53 of this CAFO are re-alleged and incorporated by reference.
55. COMAR Section 26.13.10.17(B)(3) requires a handler of universal waste such as fluorescent waste lamps be able to demonstrate the length of time that the universal waste

has been accumulated from the date it became a waste and make the demonstration by marking or labeling the universal waste, utilizing an appropriate inventory system or another method that clearly demonstrates this length of time.

56. At the time of the EPA inspection on May 20, 2008, the EPA inspectors were unable to obtain the length of time that the contents of seven boxes of fluorescent waste lamps, which listed no accumulation start date.
57. Based on the activities described in Paragraph 56 of this CAFO, above, Respondent violated COMAR Section 26.13.10.17(B)(3), by failing to demonstrate the accumulation time for fluorescent waste lamps.

COUNT VII (RCRA Subtitle I - Operation and Maintenance of Release Detection and Vapor Monitoring System)

58. The allegations contained in Paragraphs 1-57 of this CAFO are re-alleged and incorporated by reference.
59. Respondent is a "person" as defined by Sections 1004(15) and 9001(5) of RCRA, 42 U.S.C. §§ 6903(15) and 6991(5), and as defined by COMAR 26.10.02.04 and 26.13.01.03.B.
60. Respondent is, and was at all times relevant hereto, the "owner" and "operator" of an underground storage tank ("UST") as defined in COMAR 26.10.02.04 and Section 9001(3), (4), and (10) of RCRA, 42 U.S.C. § 6991(3), (4), and (10), at the Facility.
61. The UST at the Facility is a 2,000 gallon reinforced fiberglass fuel storage tank that is located under a concrete pad just south of the C-1 tunnel building ("UST").
62. The UST was at all times relevant hereto, a "petroleum UST system" used to store "regulated substances" as defined in COMAR 26.10.02.04 and a "petroleum" "UST" used to store "regulated substances" as defined in Section 9001(1), (2) and (8) of RCRA, 42 U.S.C. § 6991(1), (2) and (8).
63. COMAR 26.10.05.01(A) requires that the owner and/or operator of petroleum UST systems must have release detection systems that are installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition.
64. A vapor monitoring release detection system for the UST was located at the Facility at the time of the June 17, 2009 inspection.
65. COMAR 26.10.05.04(F)(3) requires the UST vapor monitoring system not be rendered inoperative by groundwater, rainfall, soil moisture or other known interferences so that a

release could go undetected for more than thirty (30) days.

66. Emco Wheaton, the manufacturer of the vapor monitoring system at the Facility, published instructions for the installation, operation and maintenance of the system entitled *Emco Wheaton Installation, Operation and Maintenance Leak Sensor Jr. Underground Leak Warning System* ("Manual"). According to the Manual, the monitoring well vapor sensors should be one foot (12 inches) above the highest level of the water table or as high as necessary to eliminate the possibility of the sensor being under water. The Manual further recommends that a preventative maintenance schedule be performed annually.
67. At the time of the June 17, 2009 EPA inspection, the A1 sensor was only 2.6 inches from the groundwater and the B2 sensor was only 9.2 inches from the groundwater instead of the recommended one foot (12 inches) above the highest level of the water table or as high as necessary to eliminate the possibility of the sensor being under water. In addition, none of the monitoring wells were grouted or sealed to prevent the intrusion of surface runoff.
68. Respondent violated COMAR 26.10.05.01(A) and COMAR 26.10.05.04(F)(3) by failing to operate and maintain the release detection system in accordance with the Manual.

Count VIII (RCRA Subtitle I - Line Tightness Test Or Use Proper Monthly Monitoring Method)

69. The allegations contained in Paragraphs 1-68 of this CAFO are re-alleged and incorporated by reference.
70. COMAR 26.10.05.02(C)(3) requires that underground suction piping either have a line tightness test at least every three (3) years or use a monthly monitoring method, conducted in accordance with the COMAR, unless it meets an exemption that requires, among other things, the proper placement of a check valve.
71. At the time of the EPA inspection on June 17, 2009, an inspector did not observe the required check valve and no records of tightness testing or monthly monitoring was available at the Facility. Facility personnel stated that no leak detection method was in place for the piping.
72. Respondent violated COMAR 26.10.05.02(C)(3) by failing to have a check valve in place, or to conduct tightness testing or monthly monitoring.

CIVIL PENALTY

73. Respondent consents to the assessment of a civil penalty of thirty-four thousand six

hundred dollars (\$34,600.00) in full satisfaction of all claims for civil penalties for the violations alleged in the above alleged three counts of this CAFO. Respondent must pay the civil penalty no later than thirty (30) calendar days after the effective date.

74. For the CWA violations alleged in Counts I - III, EPA considered the statutory factors set forth in Section 309(g) of the CWA, 33 U.S.C. § 1319(g), including the nature, circumstances, extent and gravity of the violation(s), Respondent's ability to pay, prior history of compliance, degree of culpability, economic benefit or savings resulting from the violations, and such other matters as justice may require.
75. For the RCRA Subtitle C violations alleged in Counts IV - VI, EPA considered the statutory factors set forth in Section 3008(a)(3) of the RCRA, 42 U.S.C. § 6928(a)(3), including the seriousness of Respondent's violations and the Respondent's good faith efforts to comply with the applicable RCRA requirements.
76. For the RCRA Subtitle I violations alleged in Counts VII and VIII, EPA considered the statutory factors including 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(c), 42 U.S.C. § 6991e(c).
77. For the RCRA Subtitles C and I violations alleged in Counts IV - VIII, EPA also considered EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 ("RCRA Penalty Policy"), which reflect the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g), the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, the September 21, 2004 memorandum by Acting EPA Assistant Administrator Thomas V. Skinner, entitled Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule ("Skinner Memorandum") 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) ("Nakayama Memorandum"). Pursuant to 40 C.F.R. Part 19, and as further provided in the Skinner Memorandum, penalties for RCRA violations occurring after March 15, 2004 and up to January 12, 2009 have been increased by an additional 17.23% to account for subsequent inflation, not to exceed a \$32,500.00 per violation statutory maximum penalty. Pursuant to 73 Fed. Reg. 75340-46 (Dec. 11, 2008), and as further provided in the Nakayama Memorandum, penalties for RCRA violations occurring after January 12, 2009 have been increased by an additional 9.83% to account for subsequent inflation, not to exceed a \$37,500.00 per violation statutory maximum penalty.
78. Payment of the civil penalty amount required under the terms of Paragraph 68, 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;
- 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
Contact: Eric Volck at 513-487-2105.
- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:
- U.S. EPA
Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Eric Volck at 513-487-2105.
- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:
- Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001
- f. All payments made by electronic wire transfer 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”

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

US Treasury REX/Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – Checking

Physical location of U.S. Treasury Facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: Jesse White at 301-887-6548, or REX at 1-866-234-5681.

- h. On-line payment option available through the Department of the Treasury.

WWW.PAY.GOV

- i. Enter sfo 1.1 in the search field and complete all required fields in the form. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

- j. 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

Judith R. Hykel (3RC60)
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

79. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest 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 by the final due date or to comply with the

conditions in this CAFO shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.

80. 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 no later than 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).

EFFECT OF SETTLEMENT

81. Payment of the penalty specified in Paragraph 73, above, in the manner set forth in Paragraph 78 above, shall constitute full and final satisfaction of all civil claims for penalties which Complainant may have under the CWA and RCRA for the specific violations alleged in Counts I - VIII, 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

82. This CAFO resolves only the civil claims for monetary penalties for the specific violations alleged in this 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 the CWA, RCRA, the regulations promulgated under the CWA and RCRA, 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

83. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, and Sections 3008 and 9006 of RCRA, 42 U.S.C. §§ 6928 and 6991e, 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.

AUTHORITY TO BIND THE PARTIES

83. 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.

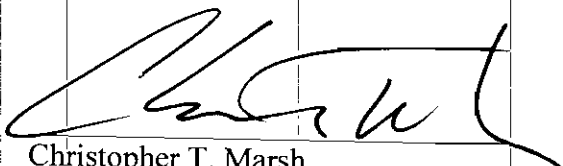
EFFECTIVE DATE

84. Pursuant to 40 C.F.R. § 22.45, this CAFO shall be issued after a 40-day public notice period for the CWA violations in Counts I-III has concluded. This CAFO will become final thirty (30) days after issuance, 33 U.S.C. § 1319(g)(4), and will become effective on that same date, 40 C.F.R. § 22.31(b).

For Respondent:

CNX Marine Terminals, Inc.

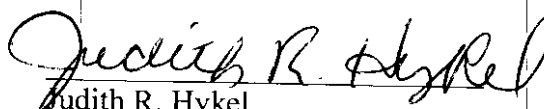
5/9/12
Date


Christopher T. Marsh
Vice President

For Complainant:

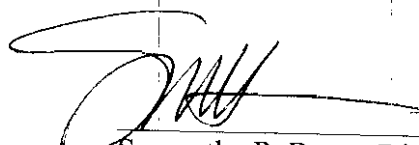
U.S. Environmental Protection Agency,
Region III

6/5/12
Date


Judith R. Hykel
Senior 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.

6/8/2012
Date


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

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

IN RE:

CNX Marine Terminals, Inc.,

Respondent,

3800 New Gate Avenue
Baltimore, Maryland, 21224,

Facility.

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Docket No. RCRA/CWA-03-2012-0156

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FINAL ORDER

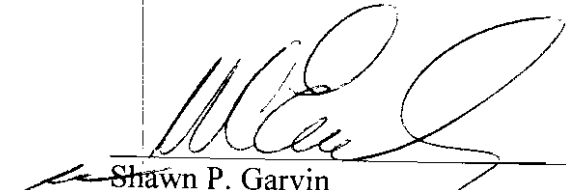
Complainant, the Director of the Office of Enforcement, Compliance, and Environmental Justice, U.S. Environmental Protection Agency, Region III, and Respondent, CNX Marine Terminals, Inc., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance 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 Section 309(g) of the CWA, 33 U.S.C. § 1319(g), Sections 3008(a) and 9006(c) of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6928(a) and 6991e(c)

IT IS HEREBY ORDERED that Respondent pay a penalty of thirty-four thousand six hundred dollars (\$34,600.00) in accordance with the foregoing 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/CWA-03-2012-0156).

The effective date of the foregoing Consent Agreement and this Final Order is thirty days after the public notice period has concluded.

JUN 18 2012
Date



Shawn P. Garvin
Regional Administrator
U.S. Environmental Protection Agency, Region III