

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE FILLED OUT BY ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: May Coe 3/24/09
Name of Contact person Date
in the ORC - R3 at 215 814
Office X 2644
Phone number

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS Administrative Order/Consent Agreement FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt This is a modification

Name of Person and/or Company/Municipality making the payment
IMO US Dept of the Army
The Total Dollar Amount of Receivable \$29,928
(If in installments, attach schedule of amounts and respective due dates)
The Case Docket Number RCRA-73-2009-0054
The Site-Specific Superfund Acct. Number _____
The Designated Regional/HQ Program Office _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____
If you have any questions call: _____
Name of Contact Date
in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

1. U.S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-002)
Cincinnati, OH 45268
Attn: Lori Weidner
2. Originating Office (ORC)
3. Designated Program Office

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

1. Originating Office
2. Designated Program Office
3. Regional Hearing Clerk
3. Regional Counsel



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Office of Enforcement and Compliance Assistance
1200 Pennsylvania Ave., NW
Washington, DC 20460

March 24, 2009

OVERNIGHT DELIVERY

Richard Wakeling, Esq.
Office of the Staff Judge Advocate
U.S. Dept. of the Army Garrison
4305 Susquehanna Avenue
Aberdeen Proving Ground, MD 21005-5001

In the Matter of: U.S. Department of the Army, Aberdeen Proving Ground
EPA Docket No. RCRA-03-2009-0054
Consent Agreement and Final Order


Dear Mr. Wakeling:

Enclosed is a true and correct copy of the fully executed Consent Agreement and Final Order ("CAFO"), filed today with the Regional Hearing Clerk, in the above-referenced matter. A copy of the memo to the Regional Judicial Officer recommending her approval of the CAFO is also enclosed.

Please ensure that the SEP is performed and that the assessed penalty is remitted in accordance with the terms and conditions set forth in the CAFO. EPA encourages you to ensure that Aberdeen Proving Ground complies fully with the underground storage tank regulations at all times in the future.

Thank you for your cooperation in resolving this matter. Please do not hesitate to contact me if any questions arise.

Sincerely,


Dan Drazan, Esq.
Federal Facilities Enforcement Office

Enclosures

cc: Lydia A. Guy, Regional Hearing Clerk (3RC00)

Richard B. Issac, Chief
Environmental Compliance Division

Jeffrey S. Weissman, Colonel, LG
Commanding
U.S. Department of Army



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

FIRST CLASS MAIL

Lori Weidner
U.S. Environmental Protection Agency
Cincinnati Finance Center
26 W. MLK Drive
Cincinnati, OH 45268

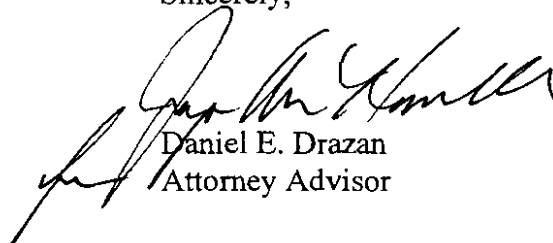
Re: Accounts Receivable
In the Matter of US Aberdeen Proving Ground
Consent Agreement and Final Order
Docket No. RCRA-03-2009-0054

Dear Ms. Weidner:

Enclosed please find a copy of the Consent Agreement and Final Order, and the Enforcement Accounts Receivable Control Number Form (EARCNF) filed with the Regional Hearing Clerk on DATE in settlement of the above referenced subject matter.

Should you have any question or require further information, please feel free to call me at (202) 564-2328.

Sincerely,



Daniel E. Drazan
Attorney Advisor

Enclosures

*In the Matter of:
Aberdeen Proving Ground*

*Consent Agreement
Docket No. RCRA-03-2009-
0054*

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

In the Matter of:)

United States Department of the Army,)
United States Department of Army)
Garrison, Aberdeen Proving Ground,)

RESPONDENTS.)

AAFES, Bldg. 2514)
AAFES, Bldg. E4010)
Chemical Biological Center, Bldg. E1451)
Churchville Test Facility, Bldg. 10309)
DIO/LOG Fuel Station, Bldg. 4029)
Marina, Bldg. E2172)
Military Fueling Station, Bldg. E4017)
Munson Test Area, Bldg. 421)
OC&S Fuel Station, Bldg. 5051)
Perryman Test Area, Bldg. 896)
Phillips Air Field, Bldg. 1078)
Aberdeen Proving Ground)
Aberdeen, Maryland 21005)

FACILITIES.)

U.S. EPA Docket Number
RCRA-03-2009-0054

Proceeding Under Section 9006 and 9007
of the Resource Conservation and
Recovery Act, as amended, 42 U.S.C.
Section 6991e and Section 6991f

CONSENT AGREEMENT

This Consent Agreement and accompanying Final Order (collectively "CAFO") is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("EPA" or "Complainant") and the United States Department of Army, ("U.S. Army") and the U.S. Department of Army Garrison, Aberdeen Proving Ground ("APG") (collectively, "Respondents"), pursuant to Section 9006 and Section 9007 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6991e and § 6991f, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3).

This CAFO resolves alleged violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and alleged violations of the State of Maryland's federally authorized underground storage tank program by Respondents in connection with the underground storage tanks at the following facilities: AAFES, Bldg. 2514; AAFES, Bldg. E4010 Chemical Biological Center, Bldg. E1451; Churchville Test Facility, Bldg. 10309; DIO/LOG Fuel Station, Bldg. 4029; Marina, Bldg. E2172, Military Fueling Station, Bldg. E4017; Munson Test Area, Bldg. 421; OC&S Fuel Station, Bldg. 5051; Perryman Test Area, Bldg. 896; and Phillips Air Field, Bldg. 1078; all located at the Aberdeen Proving Ground, located in Aberdeen, Maryland 21005 (collectively, the "APG Facilities").

Effective July 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 *in lieu* of the Federal underground storage tank management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m. The provisions of the Maryland underground storage tank management program, through this final authorization, have become requirements of Subtitle I of RCRA and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. Maryland's authorized underground storage tank program regulations are administered by the Maryland Department of the Environment ("MDE"), and are set forth in the Code of Maryland Regulations and will be cited as "COMAR" followed by the applicable section of the regulations, a copy of which is enclosed with this Complaint (Enclosure A).

Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d), authorizes EPA to assess a civil penalty against any owner or operator of an underground storage tank who fails to comply with, *inter alia*, any requirement or standard promulgated under Section 9003 of RCRA, 42 U.S.C. § 6991b (40 C.F.R. Part 280) or any requirement or standard of a State underground storage tank program that has been approved by EPA pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c.

EPA has given the State of Maryland notice of the issuance of this Consent Agreement in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

GENERAL PROVISIONS

1. For purposes of this proceeding only, Respondents admit the jurisdictional allegations set forth in this CAFO.
2. Respondents neither admit nor deny the specific factual allegations and conclusions of law set forth in this CAFO, except as provided in Paragraph 1, above.
3. Respondents agree not to contest EPA's jurisdiction with respect to the execution of this CAFO, the issuance of the CAFO, or the enforcement of the CAFO.

4. For the purposes of this proceeding only, Respondents hereby expressly waive their right to a hearing on any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order. In addition, Respondents waive their right to confer with the Administrator pursuant to RCRA § 6001(b)(2), 42 U.S.C. § 6961(b)(2).
5. Respondents consent to the issuance of this CAFO, and agree to comply with its terms and conditions.
6. Each party shall bear its own costs and attorney's fees.
7. The person signing this Consent Agreement on behalf of each Respondent certifies to EPA by his or her signature herein that such Respondent, as of the date of its execution of this Consent Agreement, is in compliance with the provisions of RCRA, Subtitle I, 42 U.S.C. §§ 6991-6991m, and the State of Maryland's federally authorized underground storage tank program set forth at COMAR 26.10.02 - .11 *et seq.* at each APG Facility referenced herein. This certification is based on the personal knowledge of the signer or an inquiry of the person or persons responsible for the APG Facility's compliance with Subtitle I of RCRA.
8. The provisions of this CAFO shall be binding upon EPA and Respondents.
9. This CAFO shall not relieve Respondents of their obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor does this CAFO constitute a waiver, suspension or modification of the requirements of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, or any regulations promulgated thereunder.
10. Complainant shall have the right to institute further actions to recover appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondents to EPA regarding matters at issue in the CAFO are false or, in any material respect, inaccurate.
11. The Complainant makes the following allegations of fact and conclusions of law.

FACTUAL ALLEGATIONS AND CONCLUSIONS OF LAW

12. EPA and EPA's Office of Administrative Law Judges have jurisdiction over this matter pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, and 40 C.F.R. § 22.1(a)(4) and .4(c).
13. US Army is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and COMAR § 26.10.02.04B(40). APG is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and COMAR § 26.10.02.04B(40).

14. At all times relevant to this CAFO, U.S. Army and APG have been the “owners” and/or “operators,” as those terms are defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and (4), and COMAR § 26.10.02.04B(37) and (39), of “underground storage tanks” (“USTs”) and “UST systems” as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and COMAR § 26.10.02.04B(64) and (66), located at the Facilities.
15. On January 22-24, 2007, an EPA representative conducted a Compliance Evaluation Inspection (“CEI”) of the APG Facilities pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.
16. At the time of the January 22-24, 2007 CEI of the APG Facilities, and at all times relevant to the applicable violations alleged herein, USTs located at each of the APG Facilities referred to in paragraph 14, above, routinely contained and were used to store gasoline, No. 2 fuel oil, biodiesel, or JP-8, each of which is a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and COMAR § 26.10.02.04B(48)
17. At all times relevant to the applicable violations alleged herein, each UST located at each APG Facility has been a “petroleum UST system,” and an “existing UST system” or a “new tank system” as these terms are defined in COMAR § 26.10.02.04B(43) (19), and (31), respectively.
18. The USTs at the APG Facilities are not and were not, at all times relevant to the applicable violations alleged in this CAFO, “empty” as that term is defined at COMAR § 26.10.10.01A.
19. Pursuant to RCRA Section 9005, 42 U.S.C. § 6991d, on September 17, 2007, EPA issued an Information Request Letter to APG concerning its petroleum UST systems at the APG Facilities.
20. Pursuant to RCRA Section 9005, 42 U.S.C. § 6991d, on February 28, 2008, EPA issued a Supplemental Information Request Letter to APG concerning its petroleum UST systems at APG Facilities.

COUNT 1

(Failure to annual test the line leak detection equipment)

21. The allegations of Paragraphs 1 through 20 of this CAFO are incorporated herein by reference.
22. Pursuant to COMAR § 26.10.05.01A and C, owners and operators of new and existing UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described therein.
23. COMAR § 26.10.05.02C(1) and (2) provide, in pertinent part, that underground piping that routinely contains and conveys under pressure regulated substances shall:
 - a. Be equipped with an automatic line leak detector conducted in accordance with COMAR § 26.10.05.05B; and
 - b. Have an annual line tightness test conducted in accordance with COMAR § 26.10.05.05C or have monthly monitoring conducted in accordance with COMAR § 26.10.05.05D.
24. COMAR § 26.10.05.05B provides, in pertinent part, that an annual test of the operation of the leak detector shall be conducted in accordance with the manufacturer's requirements.
25. At all times relevant to the violations alleged in this count between 2003 and 2006, the piping for the following USTs were underground and routinely contained and conveyed under pressure regulated substances: AAFES, Bldg. 2514, Tanks No. 91252, 91253 and 91254, AAFES, Bldg. E4010, Tanks No. 97966, 97967, and 97968, Churchville Test Facility, Bldg. 10309, Tanks No. 94926, 94927 and 94928, DIO/LOG Fuel Station, Bldg. 4029, Tanks No. 94918 and 94919, Marina, Bldg. E2172, Tank No. 95939, Military Fueling Station, Bldg. E4017, Tank No. 95937, Munson Test Area, Bldg. 421, Tanks No. 93896, 93897, 93898, 93899, 93900, OC&S Fuel Station, Bldg. 5051, Tanks No. 93894 and 93895, and Perryman Test Area, Bldg. 896, Tanks No. 93901, 93902, and 93903.
26. At various times between 2003 and 2006, Respondents failed to perform an annual test of the automatic line leak detectors for the underground piping for USTs located at: AAFES, Bldg. 2514, Tanks No. 91252, 91253 and 91254, AAFES, Bldg. E4010, Tanks No. 97966, 97967, and 97968, Churchville Test Facility, Bldg. 10309, Tanks No. 94926, 94927 and 94928, DIO/LOG Fuel Station, Bldg. 4029, Tanks No. 94918 and 94919, Marina, Bldg. E2172, Tank No. 95939, Military Fueling Station, Bldg. E4017, Tank No. 95937, Munson Test Area, Bldg. 421, Tanks No. 93896, 93897, 93898, 93899, 93900, OC&S Fuel Station, Bldg. 5051, Tanks No. 93894 and 93895, and Perryman Test Area, Bldg. 896, Tanks No. 93901, 93902, and 93903.

27. Respondents' acts and/or omissions as alleged in Paragraph 26, above, constitute violations by Respondents of COMAR § 26.10.05.02C(1) and (2)(a) and COMAR § 26.10.05.05B.

COUNT 2

(Failure to maintain tank release detection records)

28. The allegations of Paragraphs 1 through 27 of this CAFO are incorporated herein by reference.
29. Pursuant to COMAR § 26.10.05.01A and C, owners and operators of new and existing UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described therein.
30. COMAR § 26.10.04.05C(4) provides that UST system owners and operators shall maintain information of recent compliance with release detection requirements pursuant to COMAR § 26.10.05.06.
31. Pursuant to COMAR § 26.10.05.06, owners and operators of new and existing UST systems shall maintain records in accordance with COMAR § 26.10.04.05 demonstrating compliance with all applicable requirements of COMAR. These records shall include the following and shall be maintained as follows:
- A. All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, shall be maintained for 5 years from the date of installation;
 - B. The results of any sampling, testing, or monitoring shall be maintained for 1 year; and
 - C. Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site shall be maintained for at least 1 year after the service work is completed, and any schedules of required calibration and maintenance provided by the release detection equipment manufacturer shall be retained for 5 years from the date of installation.
32. From January 1, 2006 until May 31, 2007, Respondents failed to maintain any records of release detection monitoring which had been performed for Tank No. 96953, located at APG Facility Phillips Air Field, Bldg. 1078, in accordance with COMAR § 26.10.05.06 and COMAR § 26.10.04.05.

33. Respondents' omissions as alleged in Paragraph 32, above, constitute violations by Respondents of COMAR § 26.10.04.05C and COMAR § 26.10.04.05.

COUNT 3

(Failure to meet the UST system performance standards for spill and overfill prevention)

34. The allegations of Paragraphs 1 through 33 of this CAFO are incorporated herein by reference.
35. COMAR § 26.10.03.01A provides, in pertinent part, that all owners and operators of new UST systems shall meet certain requirements in order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances.
36. COMAR § 26.10.03.01D(1) provides that owners and operators of new UST systems shall use certain spill and overfill prevention equipment to prevent spilling and overfilling associated with product transfer to the UST system as follows:
- (a) Spill prevention equipment that shall prevent release of product into the environment when the transfer hose is detached from the fill pipe by use of a spill catchment basin; and
 - (b) Overfill prevention equipment that shall:
 - (i) Automatically shut off flow into the tank when the tank is more than 95 percent full, or
 - (ii) Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high level alarm.
37. The requirements set forth at COMAR § 26.10.03.01D(1), above, have been incorporated by reference into COMAR § 26.10.03.02D, and are therefore applicable to existing UST systems as well as new UST systems.
38. From March 1, 2006 until April 1, 2007, APG failed to install overfill prevention equipment for Tank No. 96959, located at APG Facility Chemical Biological Center, Bldg. E1451, as described in COMAR § 26.10.03.01D. Tank No. 96959 did not fall within the exceptions in COMAR § 26.10.03.01D(2) and was not in compliance with the closure requirements of COMAR § 26.10.10.

39. Respondents' omissions as alleged in Paragraph 38, above, constitute violations by Respondents of COMAR § 26.10.03.01A and D.

COUNT 4

(Failure to perform tank release detection)

40. The allegations of Paragraphs 1 through 39 of this CAFO are incorporated herein by reference.
41. Pursuant to COMAR § 26.10.05.01A and C, owners and operators of new and existing UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described therein. COMAR § 26.10.05.02B provides, in pertinent part, that USTs shall be monitored at least every 30 days for releases using one of the methods listed in COMAR § 26.10.05.04E-I.
42. From January 1, 2006 until February 1, 2007, Respondents had selected as their method for tank release detection equipment an EBW AutoStik Jr. automatic tank gauge on Tanks No. 93894 and 93895 at APG Facility OC&S Fuel Station, Bldg. 5051.
43. From January 1, 2006 until February 1, 2007, the EBW AutoStik Jr. automatic tank gauge on Tanks No. 93894 and 93895 at APG Facility OC&S Fuel Station, Bldg. 5051,17 was nonfunctioning. Thus, Respondents failed to perform tank release detection in accordance with COMAR § 26.10.05.04E.
44. During the periods of time indicated in Paragraphs 42 and 43, above, Respondents did not use any of the other release detection methods specified in COMAR § 26.10.05.02B(1)-(3) and/or COMAR § 26.10.05.04E-1 on Tanks No. 93894 and 93895.
45. Respondents' omissions as alleged in Paragraphs 42 through 44, above, constitute violations by Respondents of COMAR § 26.10.05.01A and .02B.

COUNT 5

(Failure to install line leak detection)

46. The allegations of Paragraphs 1 through 45 of this CAFO are incorporated herein by reference.
47. Pursuant to COMAR § 26.10.05.01A and C, owners and operators of new and existing UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described therein.

48. COMAR § 26.10.05.02C((1) and 2)(a) provide, in pertinent part, that underground piping that routinely contains and conveys under pressure regulated substances shall be equipped with an automatic line leak detector conducted in accordance with COMAR § 26.10.05.05 B.
49. From August 1, 2003 until February 28, 2007, APG failed to install line leak detection equipment on Tank No. 96953 at APG Facility Phillips Air Field, Bldg. 1078; Tank No. 95938 at Military Fueling Station, Bldg. E4017; and Tanks No. 94920 and 94921, at DIO/LOG Fuel Station, Bldg. 4029. The piping for the USTs referred to in this paragraph during the time period referred to in this Paragraph, was underground and routinely contained and conveyed under pressure regulated substances.
50. From February 29, 2007 to December 10, 2007, Respondents failed to install line leak detection equipment on Tank No. 95937 at APG Facility Military Fueling Station, Bldg. E4017. The piping for such UST, during the time period referred to in this Paragraph, was underground and routinely contained and conveyed under pressure regulated substances.
51. Respondents' omissions as alleged in Paragraphs 49 and 50, above, constitute violations by Respondents of COMAR § 26.10.05.02C(1) and (2)(a).

COUNT 6

(Failure to provide line release detection)

52. The allegations of Paragraphs 1 through 51 of this CAFO are incorporated herein by reference.
53. Pursuant to COMAR § 26.10.05.01A and C, owners and operators of new and existing UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described therein.
54. COMAR § 26.10.05.02C(1) and (2) provide, in pertinent part, that underground piping that routinely contains and conveys under pressure regulated substances shall be equipped with an automatic line leak detector conducted in accordance with COMAR § 26.10.05.05B, and have an annual line tightness test conducted in accordance with COMAR § 26.10.05.05C, or have a monthly monitoring conducted in accordance with COMAR § 26.10.05.05D.
55. From January 1, 2006 until April 4, 2007, the piping associated with Tanks No. 93894 and 93895 at APG Facility OC&S Fuel Station, Bldg. 5051 was underground and routinely contained and conveyed under pressure regulated substances. During such time, Respondents had selected as their method of release detection for such underground piping, as required by COMAR § 26.10.05.02C(1) and (2), monthly monitoring in

accordance with COMAR § 26.10.05.05D, using an EBW AutoStik Jr. automatic tank gauge.

56. From January 1, 2006 until April 4, 2007, the EBW AutoStik Jr. automatic tank gauge on Tanks No. 93894 and 93895 at APG Facility OC&S Fuel Station, Bldg. 5051, was nonfunctioning. Thus, Respondents failed to provide pipe release detection for such USTs in accordance with COMAR § 26.10.05.02C(1) and (2)(b).
57. Respondents' omissions as alleged in Paragraphs 55 and 56, above, constitute violations by Respondents of COMAR § 26.10.05.02C(1) and (2)(b).

CIVIL PENALTY

58. In settlement of Complainant's claims for civil penalties for the violations alleged in this CA, Respondents agree to pay a civil penalty in the amount of **\$29,928.00**, for which they shall be jointly and severally liable, and perform the Supplemental Environmental Project ("SEP") described below. The civil penalty amount is due and payable immediately upon Respondents' receipt of a true and correct copy of this CAFO, fully executed by the parties, signed by the Regional Judicial Officer, and filed with the Regional Hearing Clerk. Respondents must pay the civil penalty amount no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondents.
59. 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 Respondents' violations and any good faith efforts by Respondents to comply with all applicable requirements as provided in RCRA § 9006(c), 42 U.S.C. § 6991e(c), the maximum civil penalties established under RCRA § 9006(d), 42 U.S.C. § 6991e(d), Respondents' compliance history and any other factors EPA considers appropriate as provided in RCRA § 9006(e), 42 U.S.C. § 6991e(e), as well as applicable portions of EPA's Penalty Guidance for Violations of UST Regulations ("UST Guidance") dated November 4, 1990.
60. Payment of the civil penalty amount described in Paragraph 58, above, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
- A. All payments by Respondents shall reference their names and addresses, and the Docket Number of this action, *i.e.*, **RCRA-03-2009-0054**;
 - 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: Natalie Pearson, 314-418-4087

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

U.S. 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

- E. 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”**

- F. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074

Contact: Jesse White 301-887-6548

ABA = 051036706
Transaction Code 22 - Checking
Environmental Protection Agency

Account 310006
CTX Format

G. On-Line Payment Option:

WWW.PAY.GOV

Enter sfo 1.1 in the search field. Open and complete the form.

H. The customer service phone numbers for the above payment centers are:

212-720-5000 (wire transfers, Federal Reserve Bank of New York)
800-762-4224 (ACH/Wire Info, PNC Bank)

Additional payment guidance is available at:

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

I. Copies of all checks and/or copies of all electronic fund transfers made in payment of the penalty described in Paragraph 60 shall be sent simultaneously to:

Dan Drazan, Esq.
FFEO/OECA, Mail Code 2261A
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

and

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

SUPPLEMENTAL ENVIRONMENTAL PROJECT

61. Respondents shall complete the following SEP, which the parties agree is intended to secure significant environmental or public health protections. Not more than SIXTY (60) DAYS after receiving a true and correct copy of this fully executed and effective CAFO, Respondents shall commence with the removal of underground storage tanks and the

installation of new above ground storage tanks ("ASTs") as described in the SEP Statement of Work ("SEP SOW") appended to this Consent Agreement as Attachment A.

62. The SEP SOW (Attachment A) shall be fully implemented within nine months of the effective date of this CAFO.
63. The total required Actual SEP Expenditures for this SEP shall not be less than \$209,432 for the implementation of the SEP. Respondents shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.
64. Respondents hereby certify that, as of the date of this Consent Agreement, Respondents are not required to perform or develop the SEP by any federal, state or local law or regulation; nor are Respondents required to perform or develop the SEP by any other agreement, or grant, or as injunctive relief in this or any other case. Each 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.
65. Respondents shall submit a SEP Completion Report to EPA no later than thirty days after completion of the SEP. The SEP Completion Report shall have the following information:
 - a. A detailed description of the SEP as implemented, describing how the SEP has fulfilled all of the requirements described in the SEP SOW;
 - b. A description of any operating problems encountered and the solutions utilized by Respondents to address such problems;
 - c. An itemization of costs incurred in implementing the SEP. In itemizing its costs in the SEP Completion Report, Respondents shall clearly identify and provide acceptable documentation for all Actual SEP Expenditures in accordance with Paragraph 67, below. 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 of the UST removal and installation of ASTs as specified in the SEP SOW;
 - d. Certification in accordance with Paragraph 72 of this CAFO that the SEP has been fully implemented pursuant to the provisions of this CAFO, and
 - e. A description and a quantitative and qualitative estimation of the environmental and public health benefits resulting from implementation of the SEP.

66. Failure to submit the SEP Completion Report required by Paragraph 65, above, shall be a violation of this CAFO and Respondents shall become liable for stipulated penalties pursuant to Paragraph 76, below.
67. In itemizing its costs in the SEP Completion Report, Respondents 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 of the goods and/or services for which payment is being made by Respondents. 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.
68. 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 specifications referenced herein.
69. Respondents shall maintain for inspection by EPA the original records pertaining to the 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 Paragraph 87 of this CAFO. Respondents 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 of Remittance Upon Satisfaction of Settlement Conditions for the SEP as provided in Paragraph 87 of this CAFO. In all documents or reports, including without limitation, any SEP report, submitted to EPA pursuant to this CAFO, Respondents shall, by a responsible officer in charge of the implementation of this 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 72 of this CAFO.
70. After receipt of the SEP Completion Report described in Paragraph 65, above, EPA shall:
- a. Notify Respondents in writing of any deficiency in the SEP Completion Report ("Notice of Deficiency") and grant an additional THIRTY (30) DAYS for Respondent to correct the deficiency;
 - b. Notify Respondents in writing of EPA's determination that the project has been completed satisfactorily ("Notice of Approval"); or
 - c. Notify Respondents in writing that the project has not been completed satisfactorily ("Notice of Disapproval"), in which case, EPA may seek stipulated penalties in accordance with Paragraph 76 herein.

71. Respondents agree to comply with any requirements imposed by EPA to correct any deficiencies in the performance of the SEP 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 below in Paragraphs 74 and 75 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 Respondents to EPA in accordance with Paragraph 76 herein.
72. Any notice, report, certification, data presentation, or other document submitted by Respondents pursuant to this CAFO which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondents' compliance or noncompliance with any requirement of this CAFO shall be certified by a responsible officer of each Respondent as follows:

The certification of the responsible officer required above shall be in the following form:

I certify that the information contained in or accompanying this [type of submission] is 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:

73. All documents and reports to be submitted pursuant to this CAFO shall be sent to the following persons:
- a. Documents to be submitted to EPA shall be sent either by overnight mail or by certified mail, return receipt requested to:

Marie Owens (3LC70)

U. S. Environmental Protection Agency Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103 and,

Dan Drazan, Esq.
FFEO/OECA, Mail Code 2261A
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

- b. One copy of all documents submitted to EPA shall be sent by first class mail to:

Herb Meade
Administrator, Oil Control Program
Maryland Department of the Environment
Montgomery Park Business Center
1800 Washington Blvd., Suite 620
Baltimore, MD 21230

DISPUTE RESOLUTION

74. If EPA issues a written Notice of Disapproval rejecting a SEP Completion Report pursuant to Paragraph 70, above, EPA shall grant Respondents the opportunity to object in writing to such notification of disapproval within twenty (20) days of receipt of EPA's notification. EPA and Respondents shall have an additional thirty (30) days from the receipt by the EPA of the objection by Respondents 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 Respondents a written Statement of Decision and the rationale therefore.
75. 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 by Respondents as provided in Paragraph 74, above, stipulated penalties shall be due and payable by Respondents to EPA in accordance with Paragraph 76 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 purposes of the stipulated penalty provisions set forth in Paragraph 76.e., 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 74, above, but shall instead run from the date on which Respondents receive EPA's Statement of Decision pursuant to Paragraph 74, above, or, in the event that Respondents have 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.

STIPULATED PENALTIES

76. In the event that Respondents fail to comply with any of the terms or conditions of this Consent Agreement relating to the performance of the SEP as described in Paragraphs 61 to 73, above, and to the extent that the Actual SEP Expenditures approved by EPA pursuant to Paragraph 70 of this CA, do not equal or exceed the amount of the Actual SEP Expenditures required to be incurred under Paragraph 63 of this CA, Respondents shall be liable for stipulated penalties according to the provisions set forth below:
- a. Except as provided in subparagraph (b) immediately below, for a SEP which has not been completed satisfactorily pursuant to this CAFO, Respondents shall pay a stipulated penalty of up to \$104,716;
 - b. If the SEP is not completed in accordance with Paragraphs 61-73, but the Complainant determines that Respondents: (i) have made good faith and timely efforts to complete the project; and (ii) have certified, with supporting documentation, that at least 90% of the Actual SEP Expenditures required to be incurred under Paragraph 63 of this CA were expended on the SEP, Respondents shall not be liable for any stipulated penalty;
 - c. If the SEP is completed satisfactorily in accordance with Paragraphs 61-73 but the Respondents have spent less than 90% of the amount of the Actual SEP Expenditures required to be incurred under Paragraph 63 of this CA, Respondent shall pay as an additional penalty calculated as follows: the total SEP expenditure required by this settlement (\$209,432) minus the actual expenditure, then divided by 2.
 - d. If the SEP is completed in accordance with Paragraphs 61-73, and the Respondents have spent at least 90% of the Actual SEP Expenditures required to be incurred under Paragraph 63 of this CA, Respondents shall not be liable for any stipulated penalty;
 - e. For failure to submit the SEP Completion Report required by Paragraph 65, above, Respondents shall pay a stipulated penalty of FIVE HUNDRED DOLLARS (\$500) for each day after the deadline set forth in Paragraph 65 until the report is submitted,
77. The determination of whether the SEP has been satisfactorily completed and whether Respondents have 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 Paragraphs 74 and 75 of this CAFO, if applicable.

78. Stipulated penalties for Paragraph 76, 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. In no event shall the total of stipulated penalties, plus any Actual SEP Expenditures approved by EPA pursuant to Paragraph 62 of this CAFO, exceed \$209,432.
79. Respondents shall pay stipulated penalties within thirty days after receipt of written demand by EPA for such penalties. The method of payment shall be in accordance with Paragraph 60, above.
80. 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 Respondents' violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondents' violation of any applicable provision of law.

LANGUAGE TO BE INCLUDED IN PUBLIC STATEMENTS

81. Any public statement, oral or written, in print, film or other media, made by Respondents, making reference to this SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of Subtitle I of RCRA and the authorized underground storage tank regulations of the Maryland Department of Environment under RCRA Subtitle I."

PROVISIONS IN EVENT OF DELAY OR ANTICIPATED DELAY

82. If any event occurs which causes or may cause delays in the completion of the SEP as required under this CAFO, Respondent shall notify Complainant in writing not more than Seven (7) DAYS after the delay or when Respondents 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 Respondents to minimize the delay, and the timetable by which those measures shall be implemented. The Respondents shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondents to comply with the notice requirements of this Paragraph shall render this Paragraph void and of no effect as to the particular incident involved and constitute a waiver of the Respondents' right to seek an extension of the time for performance of its obligations under this CAFO.
83. 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 Respondents

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.

84. 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 Respondents which could not be overcome by due diligence, EPA will notify Respondents in writing of its decision and any delays in the completion of the SEP shall not be excused.
85. The burden of proving that any delay is caused by circumstances entirely beyond the control of Respondents which could not be overcome by due diligence shall rest with the Respondents. 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 83 of this CAFO. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

SATISFACTION OF SETTLEMENT CONDITIONS

86. A determination of compliance with the conditions set forth herein will be based upon, inter alia, copies of records and reports submitted by Respondents to EPA under this CAFO and any inspections of the work performed under the SEP that EPA reasonably determines are necessary to evaluate compliance. Respondents are aware that the submission of false or misleading information to the United States government may subject them 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 made by Respondents to Complainant regarding the matters at issue in the Factual Allegations and Conclusions of Law are false or, in any material respect, inaccurate.
87. If EPA determines that Respondents have 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 that Respondents have performed fully the conditions set forth in this CAFO and paid all penalty amounts due pursuant to the terms of this CAFO.

FULL AND FINAL SATISFACTION

88. Pursuant to 40 C.F.R. § 22.18(c), this CAFO constitutes a full and final resolution of Respondents' liability for Federal civil penalties pursuant to 9006(a) of RCRA, 42 U.S.C. § 6991e(a), for the specific violations and facts alleged in this Consent Agreement.


EFFECTIVE DATE

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

For Respondent:

United States Army

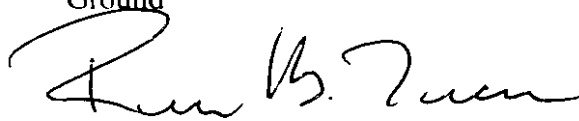
2/10/09
Date


by: Jeffrey S. Weissman
Colonel, LG
Commanding

For Respondent:

U.S. Army Garrison, Aberdeen Proving
Ground

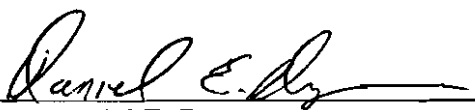
02/10/09
Date


by: Richard B. Issac
Chief
Environmental Compliance Division

For Complainant:

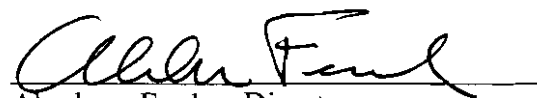
Environmental Protection Agency,
Region III

2/20/09
Date


by: Daniel E. Drazan
Attorney Advisor

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

3/13/09
Date


Abraham Ferdas, Director,
Land and Chemicals Division
EPA Region III

ATTACHMENT "A"

ABERDEEN PROVING GROUND (APG) SUPPLEMENTAL ENVIRONMENTAL PROJECT (SEP) STATEMENT OF WORK (SOW)

PROJECT NAME: APG SUPPLEMENTAL ENVIRONMENTAL PROJECT (APG SEP)

**PROJECT REQUIREMENT: REPLACE 3 UNDERGROUND STORAGE TANKS (USTS)
WITH 2 LESS CAPACITY ABOVE-GROUND STORAGE TANKS (ASTS)**

COMPLETION DATE: WITHIN NINE MONTHS OF EFFECTIVE DATE OF CAFO

PROJECT COST: APPROXIMATELY \$209,431.70

GENERAL DESCRIPTION:

The Project meets the requirement of Sections B, C and D of EPA's Final Supplemental Environmental Projects (SEP) Policy of 1998. ("SEP Policy")

Section B:

It meets the three elements of the basic definition of a SEP. The SEP is "environmentally beneficial" because it improves, protects or reduces risks to the public health or the environment at large. For example, APG will close three fuel oil-containing USTs with a combined capacity of 60,000 gallons located on APG. They will be replaced by two new above-ground storage tanks (ASTs) with a combined capacity of 16,000 gallons. Because the installed tanks would be new, above ground, and hold almost 75 percent less fuel, both the probability and the consequences of a release, if one should occur, would be orders of magnitude less. The SEP is being performed in "settlement of an enforcement action" brought by EPA against APG. This action was initiated by the U.S. Environmental Protection Agency Region III Request to Show Cause Letter, dated July 11, 2008, regarding Aberdeen Proving Ground's (APG's) asserted noncompliance with underground storage tank (UST) requirements. Lastly, the SEP meets the "not otherwise legally required to perform" test because APG is not required by any federal, state, or local law or regulation to perform or develop the activities required by this SEP. APG is not required by any agreement or grant, or as injunctive relief in this or any other case, to perform or develop these activities and APG has not received, and is not presently negotiating to receive credit in any other enforcement action for these activities.

Section C:

The SEP satisfies the "nexus" requirement of Section C of the SEP Policy. The nexus requirement is met by reducing the overall risk to public health or the environment by replacing underground tanks with fewer above ground tanks that hold significantly less fuel. In addition, the SEP meets all the other Legal Guidelines of Section C. For example, replacing USTs with ASTs is not inconsistent with the RCRA Subtitle I, EPA is not playing any financial or management role in its performance.

Section D:

The SEP fits within one of the designated categories of SEPs. Specifically, it qualifies as a pollution prevention/reduction SEP by significantly reducing the volume of regulated material stored in underground storage tanks and substantially limiting the potential for environmental harm associated

with a release of fuel oil to soil and/or groundwater thereby contributing to the RCRA Subtitle I program objectives. The SEP is directly related to EPA Region III's program regulating USTs and contributes to program objectives by reducing the number and volume of controlled/monitored material in regulated USTs.

Description of Work:

- Building 3062 - APG shall remove one 20,000-gallon heating oil UST and replace it with an 8,000-gallon, double-walled AST.
- Building 4404 - APG shall remove two 20,000-gallon heating oil USTs and replace them with an 8,000-gallon, double-walled AST.

Enclosure 1 contains tasks to be performed for tank removal and replacement at both buildings. At both locations, APG shall install a Lube Cube Model # VT8000 with a fiber clad exterior (or an equivalent model) that also has concrete in the tank's interstitial space to comply with APG fire rating requirements. The tanks will be double-walled and UL 142-rated with an emergency pressure relief valve (EPRV). The EPRV will be sized to prevent pressure build-up inside the tank of not more than 2.5 psi in accordance with NFPA 31. The ASTs will be installed in accordance with Code of Maryland (COMAR) 26.10.01.12, Requirements for Above-Ground Storage Tanks. Release detection monitoring shall be accomplished by performing monthly inspections of the interstitial space of these tanks. These inspections shall be documented by the contractor currently performing AST inspections at APG.

APG has no reason to believe that there are any releases associated with the tanks at Buildings 3062 and 4404 that shall be removed. If evidence of a release is found, APG shall clean up all releases in accordance with applicable regulations. Any costs associated with the cleanup of any releases from these tanks will be included towards completion of the APG SEP.

APG shall submit a SEP Completion Report within 30 days of the completion of SEP activities. The report shall contain the following information:

- A detailed description of the SEP as implemented;
- A description of any problems encountered in implementing the SEP and the measures taken by APG to address these problems;
- An itemization of costs incurred the APG in implementing the SEP (documented by purchase orders, receipts, etc.); and
- A description of the environmental and public health benefits resulting from the implementation of the SEP.

Schedule: Removal of three USTs at Buildings 3062 and 4404 and their replacement with two ASTs shall be completed within nine months of effective date of CAFO. A SEP Completion Report shall be submitted within 30 days of the completion of SEP activities.

ENCLOSURE 1

APG SEP PROJECT TASKS

Building 3062

1 Tank Removal

Pump and transport remaining fuel
Remove concrete, piping, backfill material and hold-down pad
Dispose of concrete and tank

Tank Replacement

Install concrete pad and fill material
Procure and install 8,000 gal Lube Cube or equivalent, piping and bollards
Grade and seed as necessary

Building 4404

2 Tank Removals

Pump and transport remaining fuel
Remove concrete, piping, backfill material and hold-down pad
Dispose of concrete and tanks

Tank Replacement

Install concrete pad and fill material
Procure and install 8,000 gal Lube Cube or equivalent, piping and bollards
Grade and seed as necessary

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

In the Matter of:

United States Department of the Army
United States Department of Army
Garrison, Aberdeen Proving Ground,

RESPONDENTS.

AAFES, Bldg. 2514
AAFES, Bldg. E4010
Chemical Biological Center, Bldg. E1451
Churchville Test Facility, Bldg. 10309
DIO/LOG Fuel Station, Bldg. 4029
Marina, Bldg. E2172
Military Fueling Station, Bldg. E4017
Munson Test Area, Bldg. 421
OC&S Fuel Station, Bldg. 5051
Perryman Test Area, Bldg. 896
Phillips Air Field, Bldg. 1078
Aberdeen Proving Ground
Aberdeen, Maryland 21005

FACILITIES.

**U.S. EPA Docket Number
RCRA-03-2009-0054**

**Proceeding Under Section 9006 and
9007 of the Resource Conservation and
Recovery Act, as amended, 42 U.S.C.
Section 6991e and 6991f**

FINAL ORDER


Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondents, the United States Department of the Army and U.S. Department of the Army Garrison, Aberdeen Proving Ground, 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. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the *Consolidated Rules of Practice* and Section 9006(c) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6991e(c) (“RCRA”), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section 9006(c) - (e) of RCRA, 42 U.S.C. § 6991e(c) - (e), **IT IS HEREBY ORDERED** that Respondents pay the civil penalty amount, as specified in the attached Consent Agreement in accordance with the payment provisions set forth in the attached Consent Agreement, and comply with each of the additional terms and conditions as specified in the attached Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date: 3/23/09


Renée Sarajian
Regional Judicial Officer
U.S. EPA, Region III

*In the Matter of:
Aberdeen Proving Ground*

*Consent Agreement
Docket No. RCRA-03-2009-
0054*

CERTIFICATE OF SERVICE


I certify that on the date noted below, I sent by Overnight Delivery Service, a copy of the Consent Agreement and Final Order, In the Matter of: U.S. Department of the Army, United States Department of the Army Garrison, Aberdeen Proving Ground, U.S. EPA Docket Number RCRA-03-2009-0054, to the persons and addresses listed below. The original Consent Agreement and Final Order were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III.

Richard B. Issac
Chief
Environmental Compliance Division
U.S. Department of Army Garrison, Aberdeen Proving Ground

Richard Wakeling, Esq
U.S. Department of Army Garrison, Aberdeen Proving Ground

Jeffrey S. Weissman
Colonel, LG
Commanding
U.S. Department of Army

Dated: 3/24/09



Mary B. Coe, Chief
Waste and Chemical Law Branch
Office of Regional Counsel
EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029