

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

In the Matter of:	:	CONSENT AGREEMENT
Sunoco, Inc. (R&M)	:	
1735 Market Street	:	
Philadelphia, PA 19103	:	
Respondent	:	U.S. EPA Docket Number RCRA-3-2009-0003
Padgett's Corner Sunoco	:	Proceeding under Section 9006
7096 Allentown Road	:	of the Resource Conservation and
Temple Hills, MD 20748	:	Recovery Act, as amended,
Facility	:	42 U.S.C. § 6991e
	:	
	:	

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**CONSENT AGREEMENT**

**Preliminary Statement**

The Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant" or "EPA") and Sunoco, Inc. (R&M) ("Respondent"), the Parties herein, wishing to settle all matters pertaining to this case, agree that entry of this Consent Agreement and accompanying Final Order (collectively referred to as the "CAFO"), without further litigation, is the most appropriate means of resolving this matter.

**General Provisions**

1. This Consent Agreement is entered into by the Parties pursuant to Section 9006 of the Resource Conservation and Recovery Act, as amended ("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.
2. Pursuant to Section 22.18(b)(2) and .18(b)(3) of the Consolidated Rules of Practice, this CAFO resolves EPA's claims for civil penalties for the specific violations of RCRA Subtitle I, 42 U.S.C. §§ 6991 - § 6991m, and the State of Maryland's underground storage tank program, alleged herein, concerning the storage of oil at Respondent's facility located at 7096 Allentown Road, Temple Hills, Maryland ("Facility").

3. 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.
4. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
5. Except as provided in Paragraph 4, above, Respondent neither admits nor denies any of the factual allegations or conclusions of law set forth in this CAFO.
6. Respondent agrees not to contest the jurisdiction of the U.S. Environmental Protection Agency ("EPA") with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
7. For the purposes of this proceeding only, Respondent hereby expressly waives its 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.
8. Respondent consents to the issuance of this Consent Agreement and the accompanying Final Order, and agrees to comply with their terms and conditions.
9. Respondent and Complainant shall bear their own costs and attorney's fees incurred in connection with this proceeding.

#### **EPA's Findings of Fact and Conclusions of Law**

10. Respondent owned the Facility at all times relevant to this proceeding.
11. Respondent was the "owner" of two 10,000-gallon "underground storage tanks" ("USTs") and "UST systems," as those terms are defined in COMAR § 26.10.02.04.B(39), (64) and (66), at all times relevant to this proceeding.
12. Respondent's USTs, identified above, all routinely contained petroleum, a "regulated substance," as defined by COMAR § 26.10.02.04B(48), during the time period relevant to this proceeding, and were "petroleum UST systems," as defined by COMAR § 26.10.02.04.B(43).

13. 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.
14. 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, with exceptions not relevant to this matter.
15. From May 20, 2007 through August 6, 2007, and from September 6, 2007 through October 3, 2007, Respondent failed to provide a method or combination of methods of release detection for the two USTs at Respondent's Facility .
16. Respondent violated COMAR § 26.10.05.01A and C, and § 26.10.05.02B, by its acts or omissions as described in Paragraph 15, above.

### Civil Penalty

17. Respondent consents to the assessment of a civil penalty of Four Thousand Six Hundred Forty Two Dollars (\$4,642.00), in full satisfaction of all Complainant's civil claims for penalties for the specific violations of Subtitle I of RCRA, 42 U.S.C. §§ 6991 *et seq.*, and the COMAR alleged herein.
18. The aforesaid penalty is based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors set forth in Section 9006(c) - (e) of RCRA, 42 U.S.C. § 6991e(c) - (e). The assessed penalty is consistent with EPA's Penalty Guidance for Violations of UST Regulations (November 4, 1990), and 40 C.F.R. Part 19, as applied to the specific facts and circumstances of this matter. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of the fully executed CAFO. In order to avoid the assessment of administrative costs for interest, administrative costs, and late payment penalties in connection with such civil penalty, as described below, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent.
19. Payment of the civil penalty as required by Paragraph 17, above, shall be made via one of the following methods:
  - a. All checks shall be made payable to "**United States Treasury**";
  - b. 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

- c. 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

- d. 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"

- e. 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  
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- f. On-Line Payment Option: WWW.PAY.GOV

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

- g. 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](http://www.epa.gov/ocfo/finservices/make_a_payment_cin.htm)

20. All payments by the Respondent shall include the Respondent's full name and address and the EPA Docket number of this Consent Agreement (RCRA-03-2009-0003).
21. At the time of payment, Respondent shall send a notice of such payment, including a copy of the check or EFT authorization, as applicable, to:

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

and

Natalie L. Katz  
Sr. Assistant Regional Counsel (3RC30)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.

22. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs 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.
23. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a Consent Agreement and Final Order begins to accrue on the date that a copy of the Consent Agreement and Final Order is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such 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).

24. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a 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.
25. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of a 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 a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
26. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

#### **Certification of Compliance**

27. By signing this Consent Agreement, Respondent certifies that, upon investigation, to the best of its knowledge and belief, the Facility is presently in compliance with all relevant provisions of RCRA Subtitle I and the authorized Maryland underground storage tank program.

#### **Other Applicable Laws**

28. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

#### **Reservation of Rights**

29. This CAFO resolves only EPA's civil claims for the specific violations alleged in this Consent Agreement. Nothing in this CAFO shall be construed as limiting the authority of EPA 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. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the *Consolidated Rules of Practice*. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

**Full and Final Satisfaction**

30. This settlement shall constitute full and final satisfaction of Complainant's civil claims for penalties for the specific violations alleged in this Consent Agreement. 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.

**Parties Bound**

31. This CAFO shall apply to and be binding upon the EPA, the Respondent and the successors and assigns of Respondent. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent acknowledges that he or she is fully authorized by Respondent to enter into this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

**Effective Date**

32. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA, Region III or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA, Region III pursuant to the *Consolidated Rules of Practice*.

**Entire Agreement**

33. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties concerning settlement of above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Agreement and the accompanying Final Order.

**For the Respondent:**

Date November 17, 2008



Name: Edward Rhodes  
Title: Senior Environmental Engineer  
Sunoco, Inc. (R&M)

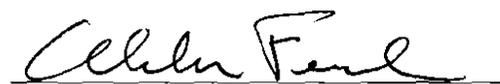
**For the Complainant:**

Date: 11/24/08

  
\_\_\_\_\_  
Natalie L. Katz  
Senior Assistant Regional Counsel

After reviewing the Findings of Fact, Conclusions of Law and other pertinent matters, the Land and Chemicals Division of the United States Environmental Protection Agency, Region III recommends that the Regional Administrator, or his designee, issue the attached Final Order.

Date: 12/2/08

  
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Abraham Ferdas, Director  
Land and Chemicals Division

BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III

In the Matter of:

FINAL ORDER

Sunoco, Inc. (R&M)  
1735 Market Street  
Philadelphia, PA 19103

Respondent

Padgett's Corner Sunoco  
7096 Allentown Road  
Temple Hills, MD 20748

Facility

U.S. EPA Docket Number  
RCRA-3-2009-0003

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

**FINAL ORDER**

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, Sunoco, Inc. (R&M), 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, 40 C.F.R. Part 22 ("Consolidated Rules of Practice"). 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 on a consideration of the factors set forth in Section 9006(c) - (e) of RCRA, 42 U.S.C. § 6991e(c) - (e). NOW, THEREFORE, PURSUANT TO Section 9006 of RCRA, 42 U.S.C. § 6991, and the Consolidated Rules of Practice, IT IS HEREBY ORDERED that Respondent pay a penalty of Four Thousand Six Hundred Forty Two Dollars (\$4,642.00) and comply with the terms and conditions of the Consent Agreement.

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk of the United States Environmental Protection Agency, Region III.

Date: 12/11/08

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

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