

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

|                           |   |   |
|---------------------------|---|---|
| In the Matter of:         | ) |   |
|                           | ) |   |
| Milford Mobil Corporation | ) | U.S. EPA Docket Number                  |
| 13 Causey Avenue          | ) | RCRA-03-2018-0004                       |
| Milford, DE 19963         | ) |   |
|                           | ) |   |
| RESPONDENT,               | ) |   |
|                           | ) |   |
| Milford Mobil             | ) | Proceeding Under Section 9006 of the    |
| 13 Causey Avenue          | ) | Resource Conservation and Recovery Act, |
| Milford, DE 19963         | ) | as amended, 42 U.S.C. Section 6991e     |
|                           | ) |   |
|                           | ) |   |
| FACILITY.                 | ) |   |

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U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
MILFORD, DELAWARE

**CONSENT AGREEMENT**

This Consent Agreement ("CA") is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant") and Milford Mobil Corporation ("Respondent"), pursuant to Section 9006 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. §§ 6991e, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3).

This CA and the Final Order (collectively "CAFO"), resolve violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and the State of Delaware's federally authorized underground storage tank program by Respondent in connection with its underground storage tanks at Respondent's facility located at 13 Causey Avenue, Milford, Delaware (the "Facility").

Effective October 28, 1996, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the State of Delaware 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. §§ 6991-6991i. The provisions of the Delaware 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. Delaware's authorized underground storage tank program regulations are administered by the Delaware Department of Natural Resources and Environmental Control ("DNREC"), and are set

forth in the Delaware Regulations Governing Underground Storage Tank Systems and will be cited as “DRGUST” followed by the applicable section of the regulations.

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.

### **GENERAL PROVISIONS**

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Respondent neither admits nor denies the specific Factual Allegations and Conclusions of Law set forth in this CAFO, except as provided in Paragraph 1, above. In accordance with 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3) of the *Consolidated Rules of Practice*, Complainant hereby simultaneously commences and resolves, as part of the settlement set forth herein, EPA’s civil claims alleged in this Consent Agreement.
3. Respondent agrees not to contest EPA’s jurisdiction with respect to the execution of this Consent Agreement (“CA”), the issuance of the attached Final Order (“FO”), or the enforcement of this CAFO.
4. 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 CA and any right to appeal the accompanying FO.
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions set forth herein. The settlement agreed to by the parties in this CAFO reflects the desire of the parties to resolve this matter without litigation. This CAFO resolves whatever liability for civil penalties Respondent may have for the violations alleged in the Factual Allegations and Conclusions of Law set forth herein.
6. Respondent shall bear its own costs and attorney’s fees.
7. The provisions of this CAFO shall be binding upon EPA and Respondent, and Respondent’s officers, directors, employees, successors and assigns.
8. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor does this CAFO constitute a waiver, suspension or modification of the requirements of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, or any regulations promulgated thereunder.

9. 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 Respondent to EPA regarding matters at issue in the CAFO are false or, in any material respect, inaccurate. Respondent is aware that the submission of false or misleading information to the United States government may subject Respondent to separate civil and/or criminal liability.
10. EPA has given the State of Delaware prior notice of the issuance of this CAFO in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

### **FACTUAL ALLEGATIONS AND CONCLUSIONS OF LAW**

11. The United States Environmental Protection Agency - Region III ("EPA" or the "Region") and EPA's Office of Administrative Law Judges have jurisdiction over this matter pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, 40 C.F.R. Part 280 and 40 C.F.R. § 22.1(a)(4) and .4(c).
12. At all times relevant to this Complaint, Respondent has been the "owner" and/or "operator," as those terms are defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and (4), and DRGUST Part A, § 2, of the "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 DRGUST Part A, § 2, located at the Facility.
13. Respondent is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and DRGUST Part A, § 2.
14. On May 18, 2015, EPA performed a Compliance Evaluation Inspection ("CEI") at Facility. At the time of the May 18, 2015 CEI, and at all times relevant to the violations alleged herein, five (5) USTs were located at the Facility as described in the following subparagraphs:
  - A. A six thousand (6,000) gallon cathodically protected steel tank that was installed in or about 1983, and that, at all times relevant hereto, routinely contained and was used to store regular grade gasoline, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and DRGUST Part A, § 2 (hereinafter "UST No. 1");
  - B. A six thousand (6,000) gallon cathodically protected steel tank that was installed in or about 1983, and that, at all times relevant hereto, routinely contained and was used to store regular grade gasoline, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and DRGUST Part A, § 2 (hereinafter "UST No. 2");
  - C. An eight thousand (8,000) gallon cathodically protected steel tank that was installed in or about 1984, and that, at all times relevant hereto, routinely

contained and was used to store super grade gasoline, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and DRGUST Part A, § 2 (hereinafter "UST No. 3");

D. A two thousand (2,000) gallon cathodically protected steel tank that was installed in or about 1988, and that, at all times relevant hereto, routinely contained and was used to store diesel fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and DRGUST Part A, § 2 (hereinafter "UST No. 4"); and

E. An one thousand (1,000) gallon cathodically protected steel tank that was installed in or about 1995, and that, at all times relevant hereto, routinely contained and was used to store kerosene fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and DRGUST Part A, § 2 (hereinafter "UST No. 5").

15. At all times relevant to the violations alleged herein, USTs Nos. 1 through 3 have been "petroleum UST systems" and "existing tank systems" as these terms are defined in DRGUST Part A, § 2.
16. At all times relevant to the violations alleged herein, USTs Nos. 4 and 5 have been "petroleum UST systems" and "new tank systems" as these terms are defined in DRGUST Part A, § 2.
17. USTs Nos. 1 through 5 are and were, at all times relevant to applicable violations alleged in this CAFO, used to store "regulated substance(s)" at Respondent's Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and DRGUST Part A, § 2, and have not been "empty" as that term is defined at DRGUST Part B, § 3.01.A.

### COUNT 1

(Failure to operate and maintain corrosion protection system continuously on UST No. 1)

18. Paragraphs 1 through 17 of this CAFO are incorporated by reference as if fully set forth herein.
19. DRGUST, Part B, § 1.06B(1). provides, in pertinent part, that all owners and operators of steel UST systems shall meet the requirements of DRGUST, Part B, § 1.06A. to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances, and all corrosion protection systems must be operated and maintained to continuously provide protection to the metal components of that portion of the tank and piping that routinely contain a regulated substance and are in contact with the ground.

20. The requirements set forth at DRGUST, Part B, § 1.06, above, have been incorporated by reference into DRGUST, Part B, § 2.02A., and are therefore applicable to existing steel UST systems as well as new steel UST systems.
21. UST No. 1 is and was, at the time of the violations alleged herein, “steel UST systems with corrosion protection” within the meaning of COMAR § 26.10.04.02.
22. From November 28, 2014 until May 30, 2017, Respondent failed to continuously provide corrosion protection to the metal components of those portions of UST No. 1 that routinely contain regulated substances and are in contact with the ground as required by DRGUST, Part B, § 2.02A., which incorporates by reference DRGUST, Part B, § 1.06.
23. Respondent’s act and/or omission as alleged in Paragraph 22, above, constitute violations by Respondent of DRGUST, Part B, § 2.02A., which incorporates by reference DRGUST, Part B, § 1.06.

#### CIVIL PENALTY

24. In settlement of EPA’s claims for civil penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **Nine Thousand Five Hundred Eighty-Four Dollars (\$9,584.00)** which Respondent shall be liable to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent’s receipt of a true and correct copy of this CAFO. If Respondent pays the entire penalty of \$9,584.00 within thirty (30) calendar days of the date on which this CAFO is mailed or hand-delivered to Respondent, no interest will be assessed against the Respondent pursuant to 40 C.F.R. § 13.11(a)(1).
25. The aforesaid settlement amount was based upon Complainant’s consideration of a number of factors, including, but not limited to, the statutory factors of the seriousness of Respondent’s violations and any good faith efforts by Respondent to comply with all applicable requirements as provided in RCRA Section 9006(c) and (e), 42 U.S.C. § 6991e(c) and (e), with specific reference to EPA’s Penalty Guidance for Violations of UST Regulations (“UST Guidance”) dated November 4, 1990. Complainant has also considered the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the July 27, 2016 memorandum by EPA Assistant Administrator Cynthia Giles, entitled *Amendments to the U.S. Environmental Protection Agency’s Civil Penalty Policies to Account for Inflation (Effective August 1, 2016)*, including the *Transmittal of the 2017 Annual Civil Monetary Penalty Inflation Adjustment Rule* dated January 1, 2017 from Susan Shinkman, Director, Office of Civil Enforcement.
26. Respondent shall pay the civil penalty set forth in Paragraph 24, above, by sending either a cashier’s check, certified check, or electronic wire transfer, in the following manner:

- A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2018-0004;
- 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 to:

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

Contact: Craig Steffen 513-487-2091

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

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

Contact: 314-418-1028

- 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 No. = 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: John Schmid (202) 874-7026 or REX, 1-866-234-5681

- H. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

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

- I. Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

A copy of Respondent's check or a copy of Respondent's electronic transfer shall be sent simultaneously to:

Regional Hearing Clerk (3RC00)  
EPA Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103 - 2029, and

Louis F. Ramalho  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.

27. 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. Accordingly, Respondent's failure to make timely payment 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.
28. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
29. 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.
30. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). The late payment penalty on any portion of the civil penalty that remains delinquent more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
31. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

#### **FULL AND FINAL SATISFACTION**

32. This CAFO constitutes a settlement by EPA of its claims for civil penalties pursuant to 9006(a) of RCRA, 42 U.S.C. § 6991e(a), for the 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.



### **RESERVATION OF RIGHTS**

33. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the 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.

### **OTHER APPLICABLE LAWS**

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

### **AUTHORITY TO BIND THE PARTIES**

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

### **CERTIFICATION OF COMPLIANCE**

36. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief that it currently is complying with applicable provisions of Subtitle I of RCRA and 40 C.F.R. Part 280, and the State of Delaware's authorized UST program.

### **ENTIRE AGREEMENT**

37. This Consent Agreement and the attached Final Order and Settlement Conditions Document constitute the entire agreement and understanding of the parties concerning settlement of the 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 attached Final Order.

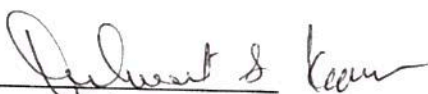
**EFFECTIVE DATE**

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

For Respondent:

Milford Mobil Corporation


10/31/17  
Date

  
Kulwand Kooner, President

For Complainant:

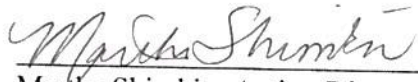
U.S. Environmental Protection Agency,  
Region III

10/11/17  
Date

  
Louis F. Ramalho  
Senior Assistant Regional Counsel

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.

7-17-2017  
Date

By:   
Martha Shimkin, Acting Director  
Land and Chemicals Division  
EPA Region III

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

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|                           | ) |   |
|                           | ) |   |
| FACILITY.                 | ) |   |

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EPA Region III  
Milford, DE

**FINAL ORDER**

Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency–Region III, and Milford Mobil Corporation (“Respondent”), 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 Section 22.13(b), and .18(b)(2) and (3)). The terms of the foregoing Consent Agreement are acceptable to the undersigned and incorporated into this Final Order as if fully set forth at length herein.


Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon the consideration of a number of factors, including, but not limited to, the statutory factors of the seriousness of Respondent’s violations and any good faith efforts by Respondent to comply with all applicable requirements as provided in Section 9006(c) and (e) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6991e(c) and (e), with specific reference to EPA’s Penalty Guidance for Violations of UST Regulations (“UST Guidance”) dated November 4, 1990.

**NOW, THEREFORE, PURSUANT TO** Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondents pay a civil penalty of **NINE THOUSAND FIVE HUNDRED EIGHTY-FOUR DOLLARS (\$9,584)** in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

**DOCKET NO. RCRA-03-2008-0004**

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

Oct. 18, 2017  
Date

  
\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. Environmental Protection Agency, Region III


**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the date listed below, a true and correct copy of the attached Consent Agreement and Final Order, Docket No. RCRA-03-2018-0004, was sent by electronic e-mail and a hard copy mailed overnight via UPS, confirmation of receipt requested to:

Kulwand Kooner, President  
Milford Mobil Corporation  
13 Causey Avenue  
Milford, DE 19963  
donlsteiner@aol.com

Date

10/18/17



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Louis F. Ramalho  
Sr. Assistant Regional Counsel  
U.S. EPA - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

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