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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY: 57
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the Matter of:)	
)	
United States Air Force and)	
)	
Army and Air Force Exchange Service,	)	U.S. EPA Docket Number
	)	RCRA-03-2008-0353
)	
RESPONDENTS.	)	Proceeding Under Section 9006 of the
	)	Resource Conservation and Recovery Act,
USAF Building 365	)	as amended, 42 U.S.C. Section 6991e
11 LRS/LGRS)	
Bolling Air Force Base)	
Washington, D.C. 20032)	
)	
USAF Building 1311)	
Autopride)	
1311 Chappie James Boulevard)	
Bolling Air Force Base)	
Washington, D.C. 20032)	
)	
USAF Marina)	
11 SVS/SVRM)	
370 Brookley Avenue)	
Bolling Air Force Base)	
Washington, D.C. 20032)	
)	
FACILITIES.)	

CONSENT AGREEMENT

This Consent Agreement (“CA”) is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“EPA” or “Complainant”) and the United States Air Force (“USAF”) and the Army and Air Force Exchange Service (“AAFES”) (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 CA and the Final Order (collectively "CA/FO"), resolve violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and the District of Columbia's federally authorized underground storage tank program by Respondents in connection with the underground storage tanks at the following facilities: USAF Building 365, 11 LRS/LGRS, Bolling Air Force Base, Washington, D.C. 20032 ("Building 365"); USAF Building 1311, Autopride, Bolling Air Force Base, Washington, D.C. 20032 ("Building 1311"); and USAF Marina, 11 SVS/SVRM, Bolling Air Force Base, Washington, D.C. 20032 ("Marina").

Effective May 4, 1998, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the District of Columbia was granted final authorization to administer a state UST management program *in lieu* of the Federal UST management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m. The provisions of the District of Columbia UST management program, through this final authorization, became requirements of Subtitle I of RCRA and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. The District of Columbia's authorized UST program regulations are set forth in the District of Columbia Municipal Regulations, Title 20, Chapters 55 *et seq.*, and will be cited hereinafter as 20 DCMR §§ 5500 *et seq.*

EPA has given the District of Columbia notice of the issuance of this CA/FO 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 CA/FO.
2. Respondents neither admit nor deny the specific factual allegations and conclusions of law set forth in this CA/FO, except as provided in Paragraph 1, above.
3. Respondents agree not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the attached Final Order ("FO"), or the enforcement of the CA/FO.
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 CA and any right to appeal the accompanying FO. 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 CA/FO, 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 CA 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 CA, is in compliance with the provisions of RCRA, Subtitle I, 42 U.S.C. §§ 6991-6991m, and the District of Columbia's federally authorized underground storage tank program set forth at 20 DCMR §§ 5500 *et seq.* at each 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 Facility's compliance with Subtitle I of RCRA.
8. The provisions of this CA/FO shall be binding upon EPA and Respondents.
9. This CA/FO 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 CA/FO 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 CA/FO are false or, in any material respect, inaccurate.
11. EPA has given the District of Columbia prior notice of the issuance of this CA/FO in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

FACTUAL ALLEGATIONS AND CONCLUSIONS OF LAW

12. 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, and 40 C.F.R. § 22.1(a)(4) and .4(c).
13. USAF is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 20 DCMR § 6899.1. AAFES is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 20 DCMR § 6899.1.
14. At all times relevant to this CA/FO, USAF 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 20 DCMR § 6899.1, 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 20 DCMR § 6899.1, located at the following facilities: USAF Building 365, 11 LRS/LGRS, Bolling Air Force Base, Washington, D.C. 20032 ("Building 365"); USAF Building 1311, Autoprider, Bolling Air Force Base, Washington, D.C. 20032 ("Building

1311"); and USAF Marina, 11 SVS/SVRM, Bolling Air Force Base, Washington, D.C. 20032 ("the Marina"). At all times relevant to this CA/FO, AAFES been the operator of the USTs and UST systems located at Building 1311.

15. On March 30, 2007, an EPA representative conducted a Compliance Evaluation Inspection ("CEI") of the Marina and Building 1311 pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d. On April 12, 2007, an EPA representative conducted a CEI of Building 365 pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.
16. At the time of the March 30, 2007 CEI of the Marina, and at all times relevant to the applicable violations alleged herein, one UST was located at the Marina:
 - A. a six thousand (6,000) gallon double-walled steel tank that was installed in April 1991 and that, at all times relevant hereto, routinely contained and was used to store gasoline, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter "Marina UST").
17. At the time of the March 30, 2007 CEI of Building 1311, and at all times relevant to the applicable violations alleged herein, four USTs were located at Building 1311:
 - A. two (2) twelve thousand (12,000) gallon fiberglass-reinforced plastic ("FRP") tanks that were installed in July 1994 and that, at all times relevant hereto, routinely contained and were used to store gasoline, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter "USTs Nos. 2 & 3 at Building 1311"); and
 - B. two (2) twelve thousand (12,000) gallon manifolded FRP tanks that were installed in July 1994 and April 1996 respectively, and that, at all times relevant hereto, routinely contained and were used to store gasoline, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter "USTs Nos. 1 & 4 at Building 1311").
18. At the time of the April 12, 2007 CEI of Building 365, and at all times relevant to the applicable violations alleged herein, three USTs were located at Building 365:
 - A. two (2) ten thousand (10,000) gallon FRP tanks that were installed in July 2000 and December 2001, respectively, and that, at all times relevant hereto, routinely contained and were used to store gasoline, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter "USTs Nos. 1 & 2 at Building 365"); and

- B. a ten thousand (10,000) gallon fiberglass reinforced plastic tank that was installed in December 2001 and that, at all times relevant hereto, routinely contained and was used to store biodiesel, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter “UST No. 3 at Building 365”).
19. At all times relevant to the applicable violations alleged herein, the Marina UST has been a “petroleum UST system” and an “existing UST system” as these terms are defined in 20 DCMR § 6899.1, respectively.
20. At all times relevant to the applicable violations alleged herein, USTs Nos. 1, 2, 3, and 4 at Building 1311 and USTs Nos. 1, 2, and 3 at Building 365 have been “petroleum UST systems” and “new tank systems” as these terms are defined in 20 DCMR § 6899.1, respectively.
21. The Marina UST, USTs Nos. 1, 2, 3, and 4 at Building 1311, and USTs Nos. 1, 2, and 3 at Building 365 are not and were not, at all times relevant to the applicable violations alleged in this CA/FO, “empty” as that term is defined at 20 DCMR § 6100.7.
22. Pursuant to RCRA Section 9005, 42 U.S.C. § 6991d, on June 5, 2007, EPA issued an Information Request to USAF concerning its petroleum UST system at the Marina.
23. Pursuant to RCRA Section 9005, 42 U.S.C. § 6991d, on June 19, 2007, EPA issued an Information Request to USAF concerning its petroleum UST systems at Building 1311.
24. Pursuant to RCRA Section 9005, 42 U.S.C. § 6991d, on June 20, 2007, EPA issued an Information Request to USAF concerning its petroleum UST systems at Building 365.

COUNT # 1

(Failure to maintain release detection records for the Marina UST)

25. The allegations of Paragraphs 1 through 24 of this CA/FO are incorporated herein by reference.
26. 20 DCMR § 6000.1 provides that each owner and operator of a new or existing UST system shall provide a method, or combination of methods, of release detection that meets the requirements described therein.
27. Pursuant to 20 DCMR §§ 6003.1 through 6003.5, tanks which are part of a petroleum UST system must be monitored at least every 30 days for releases using one of the methods listed in 20 DCMR §§ 6008 through 6012, except that: (1) prior to December 22, 1995, certain UST systems could have been monitored using a combination of inventory

control and tank tightness testing in compliance with the requirements of 20 DCMR §§ 6005 through 6007; and (2) tanks with a capacity of 550 gallons or less may use weekly tank gauging conducted in accordance with 20 DCMR § 6006.

28. 20 DCMR § 5602.4(c) provides that each UST system owner or operator shall maintain information of recent compliance with release detection requirements pursuant to 20 DCMR § 6001.
29. Pursuant to 20 DCMR § 6001.1, owners and operators of each UST systems shall maintain records in accordance with 20 DCMR § 5602 demonstrating compliance with all applicable requirements of DCMR.
30. 20 DCMR § 6001.3 and .4 provide that the results of any sampling, testing, or monitoring shall be maintained for 3 years, except the results for tank tightness testing conducted in accordance with 20 DCMR § 6007 shall be retained until the next test of the UST system is conducted.
31. From March 30, 2004 until December 1, 2007, USAF failed to maintain records of release detection monitoring which had been performed for the Marina UST in accordance with 20 DCMR § 5602.4(c) and 20 DCMR § 6001.3 and .4.
32. USAF's acts and/or omissions as alleged in Paragraph 31, above, constitute violations by USAF of 20 DCMR § 5602.4(c) and 20 DCMR § 6001.

COUNT # 2

(Failure to perform release detection on USTs Nos. 1 and 2 at Building 365)

33. The allegations of Paragraphs 1 through 32 of this CA/FO are incorporated herein by reference.
34. From September 30, 2003 until March 14, 2007, the method of release detection selected by USAF for USTs Nos. 1 and 2 at Building 365 was automatic tank gauging in accordance with 20 DCMR § 6008.
35. USAF failed to perform automatic tank gauging for UST No. 1 at Building 365 in accordance with 20 DCMR §§ 6003.1 and 6008 for the following time periods: May 4, 2005 to July 3, 2005; October 5, 2005 to December 4, 2005; January 5, 2006 to February 5, 2006; and April 6, 2006 to July 2, 2006.
36. USAF failed to perform automatic tank gauging for UST No. 2 at Building 365 in accordance with 20 DCMR §§ 6003.1 and 6008 for the following time periods: August 4, 2005 to December 4, 2005 and January 31, 2007 to March 14, 2007.

37. During the periods of time indicated in Paragraph 35 and 36, USAF did not use any of the other release detection methods specified in 20 DCMR § 6003.3 through 6003.5 and/or 20 DCMR §§ 6005 through 6012 on USTs Nos. 1 and 2 at Building 365.
38. USAF's acts and/or omissions as alleged in Paragraphs 35 through 37, above, constitute violations by USAF of 20 DCMR §§ 6000.1 and 6003.

COUNT # 3

(Failure to report a suspected release from UST No. 1 at Building 365 to the implementing agency)

39. The allegations of Paragraphs 1 through 38 of this CA/FO are incorporated herein by reference.
40. 20 DCMR § 6202.1 provides, in pertinent part, that a "responsible party," which as defined in 20 DCMR § 6899.1 includes the owner and operator of an UST or any authorized agent of a responsible party, who knows or has reason to know of a release from an underground storage tank shall notify the Director of the Department of Consumer and Regulatory Affairs of the release or suspected release within 24 hours.
41. 20 DCMR § 6202.2 provides, in pertinent part, that the notification required pursuant to 20 DCMR § 6202.1 may be provided orally or in writing, and shall consist of, if known, the name of the owner, operator and any other responsible party, as well as the location, date, time, volume, and substance of the release or suspected release.
42. 20 DCMR § 6202.3 provides that a responsible party shall not knowingly allow any release from an UST system to continue; a responsible party for an UST system shall notify the Director of any release or potential release within twenty-four hours, and shall follow the procedures in §6202, if a release is suspected.
43. 20 DCMR § 6202.4(c) provides that a responsible party shall suspect a release if, among other things, monitoring results from a release detection method required under 20 DCMR §§ 6002 through 6015 indicate a release may have occurred from the UST system, unless the monitoring device is found to be defective and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result.
44. On December 5, 2005, the monthly automatic tank gauging report for UST No. 1 at Building 365 provided a fail test result, indicating that a release may have occurred. USAF did not find the monitoring device in issue to be defective and/or USAF did not immediately repair, recalibrate, or replace any such defective device and/or USAF did not thereafter conduct additional monitoring which did not confirm the initial monitoring result.

45. USAF did not report within 24 hours to the Director of the Department of Consumer and Regulatory Affairs the release or suspected release as described in Paragraph 44 above.
46. USAF's act and/or omission as alleged in Paragraph 45, above, constitutes a violation by USAF of 20 DCMR § 6202.1 and .3.

COUNT # 4

(Failure to perform release detection on USTs Nos. 1, 2, 3, and 4 at Building 1311)

47. The allegations of Paragraphs 1 through 46 of this CA/FO are incorporated herein by reference.
48. From September 30, 2003 until December 18, 2007, the method of release detection selected by Respondents for USTs Nos. 1, 2, 3 and 4 at Building 1311 was automatic tank gauging in accordance with 20 DCMR § 6008.
49. From September 30, 2003 to December 18, 2007, Respondents failed to perform automatic tank gauging for USTs Nos. 1 and 4 at Building 1311 in accordance with 20 DCMR §§ 6003.1 and 6008.
50. Respondents failed to perform automatic tank gauging for UST No. 2 at Building 1311 in accordance with 20 DCMR §§ 6003.1 and 6008 for the following time periods: June 23, 2006 to July 3, 2006; August 4, 2006 to September 4, 2006; October 5, 2006 to November 6, 2006; and February 2, 2007 to March 5, 2007.
51. Respondents failed to perform automatic tank gauging for UST No. 3 at Building 1311 in accordance with 20 DCMR §§ 6003.1 and 6008 for the following time periods: June 23, 2006 to July 3, 2006; October 5, 2006 to December 4, 2006; February 2, 2007 to March 5, 2007; April 6, 2007 to April 30, 2007; and July 19, 2007 to October 6, 2007.
52. During the periods of time indicated in Paragraph 49, 50, and 51, Respondents did not use any of the other release detection methods specified in 20 DCMR § 6003.3 through 6003.5 and/or 20 DCMR §§ 6005 through 6012 on USTs Nos. 1, 2, 3, and 4 at Building 1311.
53. Respondents' acts and/or omissions as alleged in Paragraphs 49 through 52, above, constitute violations by Respondents of 20 DCMR §§ 6000.1 and 6003.

COUNT # 5

(Failure to perform automatic line leak detector testing annually on piping for USTs Nos. 1, 2, and 3 at Building 1311)

54. The allegations of Paragraphs 1 through 53 of this CA/FO are incorporated herein by reference.
55. 20 DCMR § 6000.2 provides that the owner and operator of each UST system, regardless of the date of installation, shall immediately comply with the release detection requirements for all pressurized piping as set forth in 20 DCMR §§ 6004.2 and 6004.3.
56. 20 DCMR § 6004.1 provides that the owner and operator of a petroleum UST system shall regularly monitor all underground piping that contains or conveys regulated substances for releases in accordance with 20 DCMR § 6004.
57. 20 DCMR § 6004.2 provides that underground piping that conveys regulated substances under pressure shall be equipped with an automatic line leak detector, in accordance with § 6013.2 of this chapter.
58. 20 DCMR § 6013.2 provides, in pertinent part, that the owner or operator shall conduct an annual test of the operation of the leak detector, in accordance with the manufacturer's requirements.
59. From September 30, 2003 until December 18, 2007, the piping for USTs Nos. 1, 2, and 3 at Building 1311 was underground and routinely contained and/or conveyed regulated substances under pressure.
60. Respondents conducted a test of the automatic line leak detectors for the piping associated with USTs Nos. 1, 2, and 3 at Building 1311 only on April 12, 2002.
61. Respondents failed to perform an annual test of the automatic line leak detectors for the underground piping associated with USTs Nos. 1, 2, and 3 at Building 1311 from April 13, 2004 until December 18, 2007.
62. Respondents' acts and/or omissions as alleged in Paragraph 61, above, constitute violations by Respondents of 20 DCMR § 6004.2 and 20 DCMR § 6013.2.

COUNT # 6

(Failure to perform line tightness testing or monthly monitoring on piping for USTs Nos. 1 and 4 at Building 1311)

63. The allegations of Paragraphs 1 through 62 of this CA/FO are incorporated herein by reference.

64. 20 DCMR § 6004.3 provides that underground piping that conveys regulated substances under pressure shall have an annual line tightness test conducted in accordance with § 6013.3 or have monthly monitoring conducted in accordance with § 6013.4.
65. From September 30, 2003 until August 30, 2007, the piping for USTs Nos. 1 and 4 at Building 1311 was underground and routinely contained and/or conveyed regulated substances under pressure.
66. Respondents failed to perform annual line tightness testing in accordance with 20 DCMR § 6013.3 or have monthly monitoring conducted in accordance with 20 DCMR § 6013.4 from March 30, 2007 until August 30, 2007 for the underground piping associated with USTs Nos. 1 and 4 at Building 1311.
67. Respondents' acts and/or omissions as alleged in Paragraph 66, above, constitute violations by Respondents of 20 DCMR § 6004.3.

COUNT # 7

(Failure to investigate and confirm a suspected release from UST No.3 at Building 1311)

68. The allegations of Paragraphs 1 through 67 of the CA/FO are incorporated herein by reference.
69. 20 DCMR § 6202.3 provides, in pertinent part, that a "responsible party" which, as defined in 20 DCMR § 6899.1, includes the owner and operator of an UST, shall follow the procedures in 20 DCMR § 6203 (Preliminary Investigation and Confirmation of Releases: Systems Tests and Site Check) if a release is suspected. Pursuant to 20 DCMR § 6202.4(c), a release shall be suspected if, among other things, monitoring results from a release detection method required under 20 DCMR §§ 6002 through 6015 indicate a release may have occurred, unless the monitoring device is found to be defective and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result.
70. 20 DCMR § 6203.1 provides, with an exception not relevant to this matter, that a responsible party which, as defined in 20 DCMR § 6899.1, includes the owner and operator of an UST, shall immediately investigate and confirm each suspected release of a regulated substance within 7 days or within such other time frame as may be required by the Director of the Department of Consumer and Regulatory Affairs, using the procedures set forth in 20 DCMR § 6203.
71. Respondents failed to undertake an immediate investigation and confirm a release or suspected release of regulated substances within the time prescribed by 20 DCMR §

6203.1 in June 2007 when the automatic tank gauge associated with the USTs at Building 1311 reported a failing result for UST No. 3 at Building 1311 on June 19, 2007.

72. Respondents' act and/or omission as alleged in Paragraph 71, above, constitutes a violation by Respondents of 20 DCMR § 6203.1.

COUNT # 8

(Failure to report to the implementing agency a suspected release from UST No. 3 at Building 1311)

73. The allegations of Paragraphs 1 through 72 of this CA/FO are incorporated herein by reference.
74. On June 19, 2007, the monthly automatic tank gauging report for UST No. 3 at Building 1311 provided a fail test result, indicating that a release may have occurred. Respondents did not find the monitoring device in issue to be defective and/or Respondents did not immediately repair, recalibrate, or replace any such defective device and/or Respondents did not thereafter conduct additional monitoring which did not confirm the initial monitoring result.
75. Respondents did not report within 24 hours to the Director of the Department of Consumer and Regulatory Affairs the release or suspected release as described in Paragraph 74 above.
76. Respondents' act and/or omission as alleged in Paragraph 75, above, constitutes a violation by Respondents of 20 DCMR § 6202.1 and .3.

CIVIL PENALTY

77. In settlement of Complainant's claims for civil penalties for the violations alleged in this CA, each Respondent agrees to pay a civil penalty as follows. Both Respondents are jointly and severally liable for payment of a civil penalty in the amount of **\$45,885.00** in settlement of Complainant's claims based on the violations alleged in Counts 4 through 8 of the CA/FO. Payment of such civil penalty shall be made by Respondents either in one (1) payment of \$45,885.00 on behalf of both Respondents, or two (2) separate payments, one by each Respondent, the combined amount of which is \$45,885.00. USAF is solely liable for payment of a civil penalty in the amount of **\$7,304.00** in settlement of Complainant's claims based on the violations alleged in Counts 1 through 3 of the CA/FO. The civil penalty amount(s) is/are due and payable immediately upon Respondents' receipt of a true and correct copy of this CA/FO, 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(s) no later than thirty (30)
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calendar days after the date on which a copy of this CA/FO is mailed or hand-delivered to Respondents.

78. 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.

79. Payment of the civil penalty amount(s) described in Paragraph 77, 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-03-2008-0353;
- 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

1. Copies of all checks and/or copies of all electronic fund transfers made in payment of the penalty described in Paragraph 77 shall be sent simultaneously to:

Brianna Tindall
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

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

FULL AND FINAL SATISFACTION

80. Pursuant to 40 C.F.R. § 22.18(c), this CA/FO 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 matters alleged in this Consent Agreement.

RESERVATION OF RIGHTS

81. EPA reserves the right to commence action against any person or persons, including Respondents, 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 CA/FO, following its filing with the Regional Hearing Clerk.

ADEQUACY OF FUNDS; ANTIDEFICIENCY ACT

82. Failure to obtain adequate funds or appropriations from Congress does not release Respondents from their obligation to comply with RCRA, the applicable regulations

thereunder, or with this CA/FO. Nothing in this CA/FO shall be interpreted to require obligation or payment of funds in violation of the Antideficiency Act, 31 U.S.C. § 1341.

OTHER APPLICABLE LAWS

83. Nothing in this CA/FO shall relieve Respondents of any duties otherwise imposed on them by applicable federal, state or local law and/or regulations.

AUTHORITY TO BIND THE PARTIES

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

ENTIRE AGREEMENT

85. This Consent Agreement and the attached Final Order 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.

In the Matter of:
United States Air Force

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~~Consent Agreement~~
Docket No. NCRA-03-2008-0353

EFFECTIVE DATE

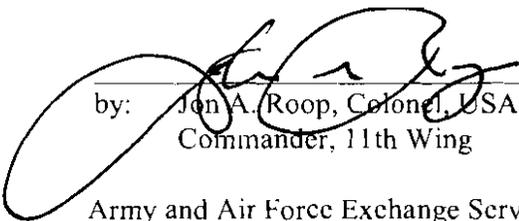
86. This CA/FO shall become effective upon filing with the Regional Hearing Clerk.

For Respondent:

United States Air Force

14 Aug 08

Date


by: Jon A. Roop, Colonel, USAF
Commander, 11th Wing

For Respondent:

Army and Air Force Exchange Service

Date

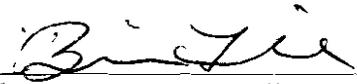
by: Brig. Gen. Keith L. Thurgood
Commander

For Complainant:

Environmental Protection Agency,
Region III

8/16/08

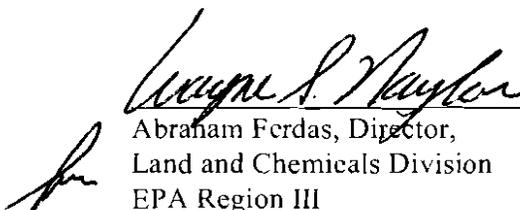
Date


by: Brianna Tindall
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.

8/27/08

Date


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

EFFECTIVE DATE

~~CONFIDENTIAL~~ 1:57 BT

86. This CA/FO shall become effective upon filing with the Regional Hearing Clerk.

For Respondent:

United States Air Force

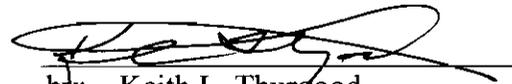
Date

by: Jon A. Roop, Colonel, USAF
Commander, 11th Wing

For Respondent:

Army and Air Force Exchange Service

15 Aug 2008
Date


by: Keith L. Thurgood
MG, U.S. Army
Commander

For Complainant:

U.S. Environmental Protection Agency,
Region III

Date

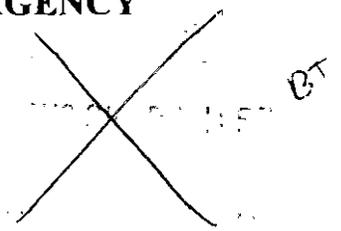
by: Brianna Tindall
Assistant Regional Counsel

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

Date

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

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



In the Matter of:)	
)	
United States Air Force and)	
)	
Army and Air Force Exchange Service,	)	U.S. EPA Docket Number
	)	RCRA-03-2008-0353
)	
RESPONDENTS.	)	Proceeding Under Section 9006 of the
	)	Resource Conservation and Recovery
USAF Building 365	)	Act, as amended, 42 U.S.C. Section
11 LRS/LGRS	)	6991e
Bolling Air Force Base)	
Washington, D.C. 20032)	
)	
USAF Building 1311)	
Autopride)	
1311 Chappie James Boulevard)	
Bolling Air Force Base)	
Washington, D.C. 20032)	
)	
USAF Marina)	
11 SVS/SVRM)	
370 Brookley Avenue)	
Bolling Air Force Base)	
Washington, D.C. 20032)	
)	
FACILITIES.)	

FINAL ORDER

Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondents, the United States Air Force and the Army and Air Force Exchange Service, 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

BT

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 amounts, as specified in the attached Consent Agreement and 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: 9/3/08


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

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 United States Air Force, U.S. EPA Docket Number RCRA-03-2008-0353**, 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.

David May
11 CES/CEV
370 Brookley Avenue SW
Bolling Air Force Base
Washington, DC 20032

Rima Silenas
Attorney
11 WG/JA
Bolling Air Force Base
Washington, DC 20032

Mike Whittington
General Counsels Office
Army and Air Force Exchange Service
3911 S. Walton Walker Blvd.
Dallas, TX 75236-1598

Dated: 9/03/08



Brianna Tindall
Assistant Regional Counsel
Office of Regional Counsel
EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029