



5. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this CAFO.
6. Except as provided in Paragraph 5 of this CA, for purposes of this proceeding, Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this CA, the issuance of the attached Final Order, or the enforcement of this CAFO.
8. For the purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this CA and any right to appeal the accompanying Final Order.
9. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
10. Each Party to this CA shall bear its own costs and attorney's fees in connection with this proceeding.

#### **IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

11. In accordance with 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and (3), Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
12. Pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, a state may administer a state UST management program in lieu of the Federal Underground Storage Tank Management Program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m. Effective October 28, 1998, EPA granted final authorization to the Commonwealth of Virginia to administer its state UST management program ("Virginia UST Management Program") in lieu of the Federal Underground Storage Tank Management Program. Because of the final authorization, provisions of the Virginia UST Management Program 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. Virginia's UST Management Program regulations are set forth in the Virginia Administrative Code ("VAC") as Underground Storage Tanks: Technical Standards and Corrective Action Requirements, 9 VAC § 25-580-10 *et seq.*
13. On January 13, 2015, EPA gave the Commonwealth of Virginia notice of the issuance of this CAFO in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).
14. Respondent is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 9 VAC 25-580-10.
15. At all times relevant to this CAFO, Respondent has been the "owner" and/or "operator," as those terms are defined in Sections 9001(3) and (4) of RCRA, 42 U.S.C. §§ 6991(3) and (4), and 9 VAC § 25-580-10, of "underground storage tanks," as that term is defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and 9 VAC § 25-580-10, and of "UST systems," as that term is defined in 40 C.F.R. § 280.12 and 9 VAC § 25-580-10, located at the Facility.

16. On December 23, 2013, an EPA representative conducted a Compliance Evaluation Inspection ("CEI") of the Facility pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.
17. At the time of the December 23, 2013 CEI, and at all times relevant to the applicable violations alleged herein, three USTs, as described in the following subparagraphs, were located at the Facility:
  - A. A twenty thousand (20,000) gallon tank that was installed in or about October 1995, and that, at all times relevant hereto, routinely contained heating oil, a substance exempted from the definition of UST and UST regulation under 40 C.F.R. § 280.12 and 9 VAC § 25-580-10;
  - B. A one thousand (1,000) gallon tank that was installed in or about October 1995, and that, at all times relevant hereto, routinely contained gasoline, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter "UST No. 2"); and
  - C. A two hundred and seventy-five (275) gallon tank that was installed in or about December 2004, and that, at all times relevant hereto, routinely contained used oil, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter "UST No. 3").
18. USTs Nos. 2 and 3 are and were, at all times relevant to the applicable violations alleged in this CA, used to store regulated substances at the Respondent's Facility.
19. During the December 23, 2013 CEI, ResCare, Inc. personnel stated that UST No. 2 is monitored by a Veeder-Root TLS-300C ("VR") that conducts daily leak detection tests. However, no leak detection records were available for review.
20. During the December 23, 2013 CEI, ResCare, Inc. personnel stated that tank release detection for UST No. 3 is performed by manual tank gauging, but no leak detection records were available for review.
21. EPA issued ResCare, Inc. a Request for Information on November 6, 2014, pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d, asking for information on the method and results of Tank Release Detection for USTs Nos. 2 and 3.
22. ResCare, Inc. responded to the EPA's November 6, 2014 Request for Information on November 21, 2014, stating that UST No. 2 had repeatedly failed weekly leak detection tests and that the VR had been malfunctioning since September 2012. The VR was repaired in July 2013. ResCare, Inc. personnel did not provide testing records for UST No. 2.
23. In ResCare, Inc.'s response from November 21, 2014, ResCare personnel also stated that they had been conducting manual tank gauging for UST No. 3 but that since May 2012 only one measurement was taken during weekly tests. ResCare, Inc. personnel did not provide testing records for UST No. 3.

Counts 1 and 2

24. Paragraphs 1 through 23 of this CA are incorporated by reference as if fully set forth herein.
25. 9 VAC § 25-580-140(1) provides that owners and operators of UST systems must monitor tanks for releases at least every thirty (30) days using one of the methods listed in 9 VAC 25-580-160(4)-(8).
26. Pursuant to 9 VAC 25-580-140(1)(c), tanks with a capacity of five hundred and fifty (550) gallons or less may alternatively use weekly tank gauging in accordance with 9 VAC 25-580-160(2) to monitor tanks for releases. 9 VAC 25-580-160(2) requires that owners and operators who choose to conduct weekly tank gauging take a total of four measurements – two at the beginning of a thirty-six (36) hour period and two at the end of that thirty-six (36) hour period.
27. At all times relevant to the applicable violations alleged herein, USTs Nos. 2 and 3 were UST systems used to store regulated substances and, as a result, Respondent was subject to the requirements of 9 VAC § 25-580-140(1).
28. From on or about September 1, 2012 until July 1, 2013, Respondent failed to monitor UST No. 2 using a form of release detection listed in 9 VAC 25-580-160(4)-(8).
29. From on or about May 1, 2012 until August 25, 2014, Respondent failed to monitor UST No. 3 using a form of release detection listed in 9 VAC 25-580-160(2), (4)-(8).
30. Respondent's failure to monitor UST No. 2 for releases at least every thirty (30) days using one of the methods listed in 9 VAC 25-580-160(4)-(8) constitutes a violation of 9 VAC § 25-580-140(1).
31. Respondent's failure to monitor UST No. 3 for releases at least every thirty (30) days using one of the methods listed in 9 VAC 25-580-160(4)-(8) or conduct weekly tank gauging in accordance with 9 VAC 25-580-160(2) constitutes a violation of 9 VAC § 25-580-140(1).

#### **V. CIVIL PENALTY**

32. Section 9006(d)(2) of RCRA, 42 U.S.C. § 6991e(d)(2), authorizes the Administrator of EPA to assess a penalty not to exceed \$10,000 for each tank for each day of violation of any requirement or standard promulgated by EPA under Section 9003 of RCRA, 42 U.S.C. § 6991b, or that is part of an authorized state UST program that EPA has approved pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c. Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 101-410, as amended, and its implementing regulation, the *Adjustment of Civil Monetary Penalties for Inflation Rule*, codified at 40 C.F.R. Part 19, EPA has subsequently raised the maximum civil penalty not to exceed \$16,000 for each tank for each day of violation for all violations occurring after January 12, 2009 and to the present.
33. In this matter, 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 of ten thousand, three hundred and fifty dollars (\$10,350.00) 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.

34. The Parties represent that the settlement terms are reasonable and are based upon EPA's consideration of a number of factors, including the penalty criteria set forth in Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), i.e., the seriousness of the violation and any good faith efforts to comply with the applicable requirements. Section 9006(e) of RCRA, 42 U.S.C. § 6991e(e) authorizes EPA to also take into consideration the compliance history of the owner or operator and any other factors that EPA considers appropriate.

35. Payment of the civil penalty amount assessed in Paragraph 33, above, shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, i.e., RCRA-03-2015-0200;
- 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 for delivery to:

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

Contact: Heather Russell 513-587-2044

- 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 and 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  
U.S. 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:

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

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

- H. On-Line Payment Option:

[www.pay.gov/paygov](http://www.pay.gov/paygov)

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

- I. Additional payment guidance is available at the following internet address:  
[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm).
- J. Payment by Respondent shall reference the Respondent shall reference the Respondent's name and address and the EPA Docket Number of this CAFO. A copy of the Respondent's check or a copy of the Respondent's electronic fund transfer shall be sent simultaneously to:

Candace Headen  
Regional Counsel  
U.S. Environmental Protection Agency  
Region III (Mail Code 3RC10)  
1650 Arch Street  
Philadelphia, PA 19103-2029;

And

Lydia Guy  
Regional Hearing Clerk

U.S. Environmental Protection Agency  
Region III (Mail Code 3RC00)  
1650 Arch Street  
Philadelphia, PA 19103-2029

#### **VI. EFFECT OF SETTLEMENT**

36. This CAFO constitutes a settlement by EPA of its claims for civil penalties pursuant to Section 9006(a) of RCRA, 42 U.S.C. § 6991e(a), for the violations alleged in this CA. 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.

#### **VII. OTHER APPLICABLE LAWS**

37. 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 Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m, or any regulations promulgated thereunder.

#### **VIII. CERTIFICATION OF COMPLIANCE**

38. Respondent certifies to Complainant, upon investigation, to the best of its knowledge and belief, that the Respondent is in compliance with the provisions of Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m, and the Commonwealth of Virginia's UST Management Program regulations set forth at 9 VAC § 25-580-10 *et seq.* at the Facility referenced in this CA.

#### **IX. RESERVATION OF RIGHTS**

39. This CAFO resolves only EPA's claims for civil monetary penalties for the specific violations alleged in Section IV ("Findings of Fact and Conclusions of Law") herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition that EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, 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.
40. As provided in 40 C.F.R. § 22.18(c), this settlement, which 40 C.F.R. § 22.18(b) authorizes, does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. Further, as provided in 40 C.F.R. § 22.18(c), this settlement, which 40 C.F.R. § 22.18(b) authorizes, only resolves the Respondent's liability for Federal civil penalties for the violations and facts alleged in this CA.

#### **X. PARTIES BOUND**

41. This CAFO shall apply to and be binding upon the EPA and the Respondent.

**XI. AUTHORITY TO BIND THE PARTIES**

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

**XII. EFFECTIVE DATE**

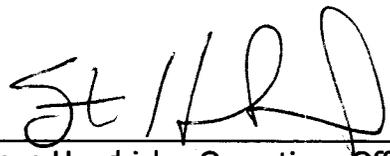
43. The effective date of this CAFO is the date on which the Final Order, signed by the Regional Administrator of EPA Region III, or his designee, the Regional Judicial Officer, is filed with the EPA Regional Hearing Clerk pursuant to the *Consolidated Rules of Practice*.

**XIII. ENTIRE AGREEMENT**

44. This CAFO constitutes the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

For Respondent:

Date: 8/10/15

  
\_\_\_\_\_  
Steve Hendricks, Operations Officer  
ResCare, Inc.

For Complainant:

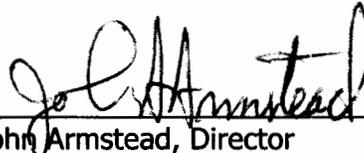
Date: 9/2/2015



Candace Headen, Regional Counsel  
Office of the Regional Counsel  
U.S. EPA Region III

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 9.8.15



John Armstead, Director  
Land and Chemicals Division  
U.S. EPA Region III

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

In the Matter of: )

ResCare, Inc. )  
1073 Father Judge Road )  
Monroe, VA 24574 )

RESPONDENT, )

Old Dominion Job Corps )  
1073 Father JUDGE Road )  
Monroe, VA 24574 )

FACILITY )

Docket No.: RCRA-03-2015-0200

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

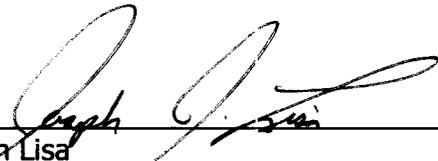
CONSENT AGREEMENT

**FINAL ORDER**

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency – Region III, and the above-captioned 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*, 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 40 C.F.R. § 22.18(b)(3) and Section 9006(c) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6991e(c), 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 Sections 9006(c) and (d) of RCRA, 42 U.S.C. §§ 6991e(c) and (d), IT IS HEREBY ORDERED that Respondent pay a civil penalty of ten thousand, three hundred and fifty dollars (\$10,350.00) 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 the foregoing Consent Agreement and this FINAL ORDER is the date on which this FINAL ORDER is filed with the EPA Regional Hearing Clerk.

Date: Sept. 9, 2015

  
 \_\_\_\_\_  
 Joseph Lisa  
 Regional Judicial Officer  
 U.S. EPA – Region III

RECEIVED  
 2015 SEP 11 AM 10:00  
 REGIONAL HEARING CLERK  
 EPA REGION III

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

In the Matter of:	)	
	)	
ResCare, Inc.	)	<b>Docket No.: RCRA-03-2015-0200</b>
1073 Father Judge Road	)	
Monroe, VA 24574	)	<b>Proceeding Under Section 9006 of the</b>
	)	<b>Resource Conservation and Recovery</b>
<b>Respondent,</b>	)	<b>Act, as amended, 42 U.S.C. Section</b>
	)	<b>6991e</b>
Old Dominion Job Corps	)	
1073 Father Judge Road	)	<b>CONSENT AGREEMENT</b>
Monroe, VA 24574	)	
	)	
<b>Facility.</b>	)	

**CERTIFICATE OF SERVICE**

I certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the above referenced matter was sent this day in the following manner to the below addressees.

**Original and One Copy by Hand-Delivery:**

Lydia Guy, Regional Hearing Clerk

**Copy by UPS Overnight:**

Deena G. Ombres, Associate General Counsel & Privacy Officer  
ResCare, Inc.  
9901 Linn Station Road  
Louisville, KY 40223

9/10/15  
Date

  
Candace Headen  
Assistant Regional Counsel  
U.S. EPA, Region III

*Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and process chlorine free.  
Customer Service Hotline: 1-800-438-2474*

