

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

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

2012 SEP 12 AM 9:31

RECEIVED

In Re:

United States Air Force  
Army and Air Force Exchange Service

Docket No. RCRA-03-2012-011

CONSENT AGREEMENT

RESPONDENTS

Joint Base Langley-Eustis  
37 Sweeney Boulevard  
Joint Base Langley-Eustis,  
Virginia 23665

Proceeding under 3008(a) and (g) and 9006 of  
the Resource Conservation and Recovery  
Act, *as amended*, 42 U.S.C. §§ 6928(a) and (g)  
and 6991e

FACILITY

I. PRELIMINARY STATEMENT

1. This Consent Agreement (“CA”) is entered into by the Director, Land and Chemicals Division, United States Environmental Protection Agency, Region III (“Complainant” or “EPA”), and the United States Air Force (“USAF”) and the Army and Air Force Exchange Service (“AAFES”)(collectively referred to as “Respondents”) pursuant to 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. Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, this CA and the attached Final Order (“FO,” hereinafter jointly referred to as the “CA/FO”) both commence and conclude the above-captioned administrative proceeding against Respondents, brought under Section 3008(a) and (g) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a) and (g), and for alleged violations of RCRA Subtitle C, 42 U.S.C. § 6921 *et seq.* and Subtitle I, 42 U.S.C. §§ 6991-6991m, as those requirements have been adopted as part of the Commonwealth of Virginia’s federally authorized waste management and underground storage tank (“UST”) programs at Respondents’ facilities at Joint Base Langley-Eustis, Virginia (the “Facility”).
2. Respondent U.S. Air Force is a department of the United States, and Respondent AAFES is a component of the Department of Defense, and a joint command of the Army and the Air Force. Each Respondent is a department, agency, or instrumentality of the executive branch of the United States federal government.

3. On December 18, 1984, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, the Commonwealth of Virginia was granted final authorization to administer a state hazardous waste management program *in lieu* of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. The authorized Virginia hazardous waste management program (“VHWMP”) was revised, effective September 29, 2000 (*see* 65 *Fed. Reg.* 46606 (July 31, 2000)), June 20, 2003 (*see* 68 *Fed. Reg.* 36925 (June 20, 2003)), July 10, 2006 (*see* 71 *Fed. Reg.* 27216 (May 10, 2006)) and July 30, 2008 (*see* 73 *Fed. Reg.* 44168 (July 30, 2008)). The current provisions of the VHWMP are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
4. The 2003 VHWMP, with exceptions not relevant to this matter, incorporates by reference the federal hazardous waste regulations as set forth in the July 1, 2001 Code of Federal Regulations. Citations in this CA to the 2003 VHWMP will set forth the appropriate federal regulation as well as the Virginia provision which incorporates such federal regulation by reference.
5. Effective October 28, 1998, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the Commonwealth of Virginia was granted final authorization to 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. §§ 6991-6991i. The provisions of the Virginia UST management program, through these final authorizations, 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. Therefore, all UST citations will be to Virginia’s authorized UST program regulations, which are set forth in the Virginia Administrative Code as Underground Storage Tanks: Technical Standards and Corrective Action Requirements (“VA UST Regulations”), 9 VAC § 25-580-10 *et seq.*
6. This CA is entered into by Complainant and Respondents to address the violations alleged in the Findings of Fact, as set forth below.
7. For the purposes of this proceeding, Respondents admit the jurisdictional allegations of this CA.
8. For the purposes of this proceeding only, Respondents neither admit nor deny the Findings of Fact contained in this CA, except as provided in Paragraph 7, above.
9. For the purposes of this proceeding only, Respondents neither admit nor deny the Conclusions of Law contained in this CA, except as provided in Paragraph 7, above.
10. The settlement agreed to by the parties upon the terms set forth in this CA reflects the desire of the parties to resolve this matter without litigation.

11. For the purposes of this proceeding only, Respondents hereby expressly waive their right to contest the allegations in this CA or to appeal the FO attached hereto. In addition, Respondents waive their right to confer with the Administrator pursuant to RCRA § 6001(b)(2), 42 U.S.C. § 6961(b)(2).
12. Respondents consent to the issuance of this CA and to the attached FO and agree to comply with their terms. Respondents agree not to contest Complainant's jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement thereof.
13. Each party shall bear its own costs and attorney's fees in connection with this proceeding.
14. This CA/FO shall not relieve Respondents of their obligations 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 C, 42 U.S.C. §§ 6921 *et seq.* and RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, or any regulations promulgated thereunder.
15. 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. Respondents are aware that the submission of false or misleading information to the United States Government may subject Respondents to separate civil and/or criminal liability. Respondents reserve all available rights and defenses they may have, consistent with the terms of this CA/FO, to defend themselves in any such action.

#### **Notice of Action to the Commonwealth of Virginia**

16. EPA has given the Commonwealth of Virginia prior notice of the issuance of this CA/FO in accordance with Sections 3008(a)(2) and 9006(a)(2) of RCRA, 42 U.S.C. §§ 6928(a)(2) and 6991e(a)(2).

#### **Jurisdiction**

17. 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 Sections 3008 and 9006 of RCRA, 42 U.S.C. §§ 6928 and 6991e, 40 C.F.R. Part 280 and 40 C.F.R. §§ 22.1(a)(4) and .4(c).

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

In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant alleges the following findings of fact and conclusions of law:

18. Each Respondent is, and was at the time of the violations alleged herein, a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 9 VAC § 20-60-260.A, which incorporates by reference 40 C.F.R. § 260.10 with exceptions not relevant herein.
19. Each Respondent is and, at all times relevant to the violations alleged in this CA, was an “owner” and/or “operator” of a “facility” located at Joint Base Langley-Eustis, Virginia (“the Facility”), as those terms are defined in 9 VAC 20-60-260.A, which incorporates by reference 40 C.F.R. § 260.10 with exceptions not relevant herein.
20. The Facility has been assigned EPA RCRA ID No. VA4570024477.
21. From March 23, 2009 through March 26, 2009, EPA, accompanied by representatives of the Virginia Department of Environmental Quality (VADEQ), conducted an inspection at the Facility (hereinafter “2009 Inspection”).
22. On March 22, 2011, EPA conducted an additional inspection at the Facility (hereinafter “2011 Inspection”).
23. At all times relevant to this CA/FO, the USAF has been a “generator” of, and has engaged in the accumulation of materials that are “solid waste” and “hazardous waste” at the Facility as those terms are defined in 40 C.F.R. §§ 260.10 and 261.2 and .3, which are incorporated by reference at 9 VAC §§ 20-60-260 and 261.
24. At certain times relevant to this CA/FO, the USAF generates and stores hazardous waste (as that term is defined at 40 C.F.R. §§ 260.10 and .3, which are incorporated by reference at 9 VAC §§ 20-60-260 and 261) at the Facility in an amount greater than 1,000 kilograms per month.
25. At the time of the Inspection, the USAF was engaged in the “storage” of “hazardous waste” in “containers” at the Facility, as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference by and/or as defined in 9 VAC § 20-60-260.
26. At all times relevant to this CA/FO, the USAF has been the “owner” and AAFES has been the “operator,” as those terms are defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and (4), and 9 VAC § 25-580-10, of “underground storage tanks” (“USTs”) and “UST systems” as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and 9 VAC § 25-580-10, located at the Facility.
27. During the 2009 and 2011 Inspections at the Facility, and at all times relevant to the violations alleged herein, four (4) USTs owned by USAF and operated by AAFES

(collectively referred to hereafter as “the USTs”) were located at the Facility as described in the following subparagraphs:

- A. A twenty thousand (20,000) gallon underground double walled fiberglass reinforced plastic tank at the Main Base Mini Mall area of the Facility that was installed on or around April 21, 2006, and that, at all times relevant hereto, routinely contained and was used to store gasoline fuel (hereinafter “Main Base UST No. 1”);
- B. A twenty thousand (20,000) gallon compartmentalized, underground double walled fiberglass reinforced plastic tank at the Main Base Mini Mall area of the Facility that was installed on or around April 21, 2006, and that, at all times relevant hereto, routinely contained and was used to store gasoline fuel (hereinafter “Main Base UST No. 2”). Main Base UST No. 2 also includes:
  - (1) A ten thousand (10,000) gallon compartment of the above underground double walled fiberglass reinforced plastic tank at the Main Base Mini Mall that, at all times relevant hereto, routinely contained and was used to store gasoline fuel (hereinafter “Main Base UST No. 2a”); and
  - (2) A ten thousand (10,000) gallon compartment of the above underground double walled fiberglass reinforced plastic tank at the Main Base Mini Mall that, at all times relevant hereto, routinely contained and was used to store gasoline fuel (hereinafter “Main Base UST No. 2b”)
- C. A twenty thousand (20,000) gallon underground double-walled fiberglass reinforced plastic tank at the Bethel Manor Mini Mall area of the Facility that was installed on or around June 5, 2007, and that, at all times relevant hereto, routinely contained and was used to store gasoline fuel (hereinafter “Bethel Manor UST No. 1”); and
- D. A fifteen thousand (15,000) gallon underground double-walled fiberglass reinforced plastic tank at the Bethel Manor Base Mini Mall area of the Facility that was installed on or around June 5, 2007, and that, at all times relevant hereto, routinely contained and was used to store gasoline fuel (hereinafter “Bethel Manor UST No. 2”).

28. Gasoline fuel is 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.

29. At all times relevant to the applicable violations alleged in this CA/FO, the USTs have been “petroleum UST systems” and “existing tank systems” as these terms are defined in 9 VAC § 25-580-10.
30. The USTs are and were, at all times relevant to the applicable violations alleged in this CA/FO, used to store “regulated substance(s)” at Respondents’ Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10, and have not been “empty” as that term is defined at 9 VAC § 25-580-310(1).

### **COUNT I**

#### **(Failure to Accumulate Waste At or Near the Point of Generation)**

31. The allegations of Paragraphs 1 through 30 of this CA are incorporated herein by reference.
32. 40 C.F.R. § 262.34(c)(1), which is incorporated by reference by 9 V.A.C. § 20-60-262, provides that generators may accumulate as much as 55 gallons of hazardous waste so long as such storage occurs at or near the point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit, interim status, or complying with 40 C.F.R. § 262.34(c)(1)(a) and (d), which are incorporated by reference by 9 V.A.C. § 20-60-262.
33. During the 2009 Inspection, EPA observed that hazardous waste generated by the USAF in the Armament Wash Rack located in Building 753 was being collected in a five (5) gallon container marked as hazardous waste in a separate, adjacent room containing the part washer machine.
34. During the 2009 Inspection, EPA observed that hazardous waste generated by the USAF in Bay 1 (hazardous waste film) and Bay 4 (cadmium dust from sanding operations) in Building 1048 was being collected in Bay 2 in a twelve (12) gallon container.
35. The inspectors during the 2009 Inspection determined that waste in both Buildings 753 and 1048 was stored away from the control of the operator of the process generating such waste.
36. By storing waste away from the control of the operator, Respondent USAF violated 40 C.F.R. § 262.34(c)(1), which is incorporated by reference by 9 VAC § 20-60-262.

### **COUNT II**

#### **(Failure to Properly Manage Universal Waste)**

37. The allegations of Paragraphs 1 through 36 of this Consent Agreement are incorporated herein by reference.

38. 40 C.F.R. § 273.13(d), which is incorporated by reference by 9 VAC § 20-60-273, requires that small quantity handlers of universal waste contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
39. 40 C.F.R. § 273.14(e), which is incorporated by reference by 9 VAC § 20-60-273, requires that each lamp or a container or package in which such lamps are contained be labeled or marked clearly with any one of the following phrases: "Universal Waste – Lamp(s)" or "Waste Lamp(s)" or "Used Lamp(s).
40. At the time of the Inspection, USAF was a "small quantity handler of universal waste" as that term is defined at 40 C.F.R. § 273.9, as incorporated by reference in 9 VAC § 20-60-273, and was storing universal waste.
41. During the 2009 Inspection, EPA observed six spent fluorescent universal waste light bulbs in the electric shop that were not in containers as required by 40 C.F.R. § 273.13(d), which is incorporated by reference by 9 VAC 20-60-273.
42. During the 2009 Inspection, EPA observed additional universal waste light bulbs in the electric shop in a container that did not have the appropriate labeling as required by 40 C.F.R. § 273.14(e), which is incorporated by reference by 9 VAC § 20-60-273.
43. By not appropriately labeling universal waste, Respondent USAF violated 40 C.F.R. §§ 273.13(d) and 273.14(e), which are incorporated by reference by 9 VAC § 20-60-273.

### COUNT III

#### **(Failure to Update RCRA Contingency Plan)**

44. The allegations of Paragraphs 1 through 43 of this CA are incorporated herein by reference.
45. 40 C.F.R. § 264.51, which is incorporated by 9 VAC § 20-60-264, requires that each owner or operator have a contingency plan for his facility in order to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden releases of hazardous waste or hazardous waste constituents to air, soil, or surface water.
46. 40 C.F.R. § 264.52(d), which is incorporated by 9 VAC § 20-60-264, requires that the plan must list names, addresses, and phone numbers of all persons qualified to act as emergency coordinator, and must be kept up to date.

47. During the 2009 Inspection, EPA determined that the Facility's contingency plan listed an employee that no longer worked as an alternate emergency coordinator and had not been updated with a new alternate emergency coordinator. Respondent USAF's failure to update the plan violated 40 C.F.R § 264.52(d), which is incorporated by 9 VAC § 20-60-264.

#### **COUNT IV**

##### **(Failure to Create and/or Retain Monthly UST Release Records)**

48. The allegations of Paragraphs 1 through 47 of this Consent Agreement are incorporated herein by reference.
49. 9 VAC § 25-580-180, requires that the results of any sampling, testing, or monitoring such as monthly tank release detection tests, be created and retained for one year.
50. During the 2009 Inspection, the EPA inspector observed that monthly tank release records were not kept for Main Base USTs Nos. 1 and 2 for the months of August, September, and October, 2008, in violation of 9 VAC § 25-580-180.
51. During the 2011 Inspection, the EPA inspector observed that monthly tank release records were not kept for Main Base USTs Nos. 1 and 2 for the months of April, May, and August, 2010.
52. The failure by the USAF and AAFES to retain these records violated 9 VAC § 25-580-180.

#### **COUNT V**

##### **(Failure to Conduct Manual Leak Line Detection Tests)**

53. The allegations of Paragraphs 1 through 52 of this CA are incorporated herein by reference.
54. 9 VAC § 25-580-170(1), requires that an annual test of the operation of line leak detectors be conducted in accordance with the manufacturer's requirements.
55. Based on the EPA inspector's review of the records at the Facility during the 2011 Inspection, EPA determined that the necessary line leak detector tests had not been done for Bethel Manor UST No. 2 as required by 9 VAC § 25-580-170(1).
56. The failure to conduct the necessary line leak detector tests by Respondents USAF and AAFES violated 9 VAC § 25-580-170(1).



### III. CIVIL PENALTIES

57. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this CA/FO, each Respondent consents to the assessment of civil penalties in the amounts as follows, which Respondent agrees to pay in accordance with the terms set forth below. The USAF is solely liable for payment of a civil penalty in the amount of \$6,750.00 in settlement of Complainant's claims based on the violations alleged in Counts I through III of the CA/FO. Both Respondents are jointly and severally liable for payment of a civil penalty in the amount of \$379.00 in settlement of Complainant's claims based on the violations alleged in Count IV and V of the CA/FO. Payment of such civil penalty shall be made by Respondents either in one (1) payment of \$379.00 on behalf of both Respondents, or two (2) separate payments, one by each Respondent, the combined amount of which is \$379.00. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct signed 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 sixty (60) calendar days after the date on which a copy of this CA/FO is mailed or hand-delivered to Respondents.
58. 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 the violations and good faith efforts of each Respondent to comply, as provided for in Sections 3008(a)(3) and 9006(c) of RCRA, 42 U.S.C. §§ 6928(a)(3) and 6991e(c), and in accordance with EPA's RCRA Penalty Policy dated June 23, 2003 and EPA's Penalty Guidance for Violations of UST Regulations dated November 4, 1990 and adjusted for inflation pursuant to 40 C.F.R. Part 19.
59. Respondents shall remit payment for the civil penalty set forth in Paragraph 57 above, by certified check or cashier's check, or by electronic funds transfer, in the following manner:
- A. All payments by Respondents shall reference Respondents' names and addresses, and the Docket Number of this action, *i.e.*, RCRA-03-2012-0117;
  - 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: 513-487-2105 or 513-487-2091

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

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

Contact: 314-418-1028

- 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:

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

Physical Location of U.S. Treasury Facility  
5700 Rivertech Court  
Rivertech, Maryland 20737

Contact: 202-874-7026 or 1-866-234-5681

- G. On-Line Payment Option:

WWW.PAY.GOV

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

Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/payment\\_instructions.htm](http://www.epa.gov/ocfo/finservices/payment_instructions.htm)

H. Inter-governmental Payment and Collections Option.

Respondents may pay through the Inter-governmental Payment and Collections to agency location code 68-01-0727. The "description field" shall reference the Respondents' names and addresses and the EPA Docket Number of this CA/FO.

I. Payment by the Respondents shall reference Respondents' names and addresses, and the EPA Docket Number of this CA/FO. A copy of Respondents' check or a copy of Respondents' electronic fund transfer or other receipt shall be sent at that time to:

James F. Van Orden  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region III (Mail Code 3RC42)  
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

60. In accordance with 40 C.F.R. § 13.3, any debt owed to the EPA as a result of either Respondent's failure to make timely payments in accordance with Paragraph 57 above, shall be resolved by negotiation between the EPA and Respondents or by referral to the General Accounting Office, since 2004, referred to as the Government Accountability Office (PL-108-271).

#### **IV. CERTIFICATION OF COMPLIANCE**

61. The individuals signing this CA on behalf of the Respondents certify to EPA by his or her signature herein that Respondents, as of the date of its execution of this CA/FO, are in compliance with the provisions of RCRA, Subtitle C, 42 U.S.C. §§ 6901 *et seq.*, and the Commonwealth of Virginia's federally authorized hazardous waste program set forth at 9

VAC § 20-60-260 *et seq.* and/or of RCRA, Subtitle I, 42 U.S.C. §§ 6991 *et seq.*, and the Commonwealth of Virginia's federally authorized UST program at the 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 Subtitles C and/or I of RCRA.

#### **V. OTHER APPLICABLE LAWS**

62. Nothing in this CA/FO shall relieve Respondents of any duties or obligations otherwise imposed upon it by applicable Federal, State or local laws or regulations.
63. 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 any funds in violation of 31 U.S.C. §1341, 10 U.S.C. § 2783, or other applicable law.

#### **VI. RESERVATION OF RIGHTS**

64. This CA/FO resolves only EPA's claims for civil penalties for the specific violations of RCRA Subtitles C and I which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including Respondents, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, 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. Respondents reserve all available rights and defenses they may have, consistent with the terms of this CA/FO, to defend themselves in any such action
65. This CA/FO and any provision herein shall not be construed as an admission of liability in any criminal or civil action or other administrative proceeding, except in an action or proceeding to enforce or seek compliance with this CA and its accompanying FO.

#### **VII. FULL AND FINAL SATISFACTION**

66. The settlement set forth in this CA/FO shall constitute full and final satisfaction of Complainant's claims for civil penalties for the specific violations set forth in the CA/FO.

### **VIII. PARTIES BOUND**

67. This CA/FO shall apply to and be binding upon EPA, Respondents, and Respondents' officers, employees, agents, successors, and assigns. By his/her signature below, the individuals signing this Consent Agreement on behalf of Respondents are acknowledging that he or she is fully authorized to enter into this Agreement on behalf of their respective agencies and to bind their respective agencies to the terms and conditions of this CA/FO.

### **IX. EFFECTIVE DATE**

68. Pursuant to 40 C.F.R. § 22.31(b), the effective date of this CA/FO is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or his designee, is filed with the Regional Hearing Clerk.

### **X. ENTIRE AGREEMENT**

69. This CA/FO constitutes 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 CA/FO.

**In Re: United States Air Force and Army and Air Force Exchange Service  
Joint Base Langley-Eustis  
Docket No. RCRA-03-2012-0117**

**For the Respondent:**

**United States Air Force**

Date: 6 AUG 2012

By: 

KORVIN D. AUCH, Colonel, USAF  
Commander, 633d Air Base Wing

**In Re: United States Air Force and Army and Air Force Exchange Service  
Joint Base Langley-Eustis  
Docket No. RCRA-03-2012-0117**

**For the Respondent:**

**Army and Air Force Exchange**

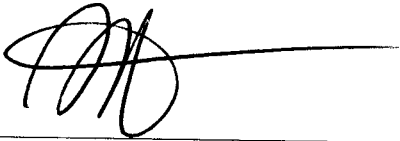
Date: 1 Aug 2012

By: Wayne A. Hansen  
WAYNE A. HANSEN  
General Manager  
Joint Base Langley-Eustis Exchange

**In Re: United States Air Force and Army and Air Force Exchange Service  
Joint Base Langley-Eustis  
Docket No. RCRA-03-2012-0117**

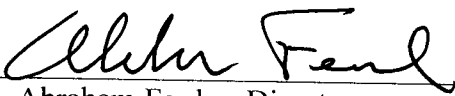
**For the Complainant:** **U.S. Environmental Protection Agency, Region III**

Date: Sept. 6, 2012

By:   
James F. Van Orden  
Assistant Regional Counsel

The Land and Chemicals Division, United States Environmental Protection Agency - Region III, recommends that the Regional Administrator of the U.S. EPA Region III or his designee issue the accompanying Final Order.

Date: 9/7/12

By:   
Abraham Ferdas, Director  
Land and Chemicals Division  
U.S. EPA - Region III



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

<b>In Re:</b>	:	
	:	
<b>United States Air Force Army and Air Force Exchange Service</b>	:	<b>Docket No. RCRA-03-2012-0117</b>
	:	
	:	<b>FINAL ORDER</b>
	:	
<b>RESPONDENTS</b>	:	
	:	Proceeding under 3008(a) and (g) and 9006 of
<b>Joint Base Langley-Eustis 37 Sweeney Boulevard Joint Base Langley-Eustis, Virginia 23665</b>	:	the Resource Conservation and Recovery
	:	Act, <i>as amended</i> , 42 U.S.C. §§ 6928(a) and (g)
	:	and 6991e
	:	
	:	<b>FACILITY</b>
	:	<b><u>FINAL ORDER</u></b>

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondents, **United States Air Force and Army and Air Force Exchange Service** (“Respondents”), have executed a document entitled “Consent Agreement” which I 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 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are incorporated herein by reference.

NOW, THEREFORE, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a), and based upon the representations of the parties set forth in the Consent Agreement that the civil penalty amount agreed to by the parties in settlement of the above-captioned matter is based upon a consideration of the factors set forth in RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3), IT IS HEREBY ORDERED THAT Respondents shall pay their respective share of a civil penalty in the amount of SEVEN THOUSAND ONE-HUNDRED TWENTY-NINE DOLLARS (**\$7,129.00**) according to the payment terms and amounts specified in Section III of the Consent Agreement, and comply with the terms and conditions of the Consent Agreement. IT IS HEREBY ORDERED THAT the United States Air Force pay a civil penalty in the amount of SIX THOUSAND ONE-HUNDRED TWENTY-NINE DOLLARS (**\$6,750.00**) in settlement of Complainant’s claims based on the violations alleged in Counts I through III of the CA/FO. IT IS ALSO HEREBY ORDERED THAT both Respondents are jointly and severally liable for payment of a civil penalty in the amount of THREE HUNDRED SEVENTY-NINE DOLLARS (**\$379.00**) in

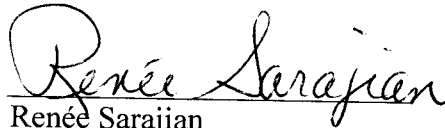
settlement of Complainant's claims based on the violations alleged in Count IV and V of the CA/FO. Payment of such THREE HUNDRED SEVENTY-NINE DOLLARS (\$379.00) civil penalty shall be made by Respondents either in one (1) payment of THREE HUNDRED SEVENTY-NINE DOLLARS (\$379.00) on behalf of both Respondents, or two (2) separate payments, one by each Respondent, the combined amount of which is THREE HUNDRED SEVENTY-NINE DOLLARS (\$379.00).

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date:

9/11/12

BY:



Renée Sarajian

Regional Judicial Officer

United States Environmental Protection Agency  
Region III