



Section 9006(d)(2)(B) of RCRA, 42 U.S.C. § 6991c(d)(2)(B), authorizes EPA to assess a civil penalty against any owner or operator of an underground storage tank who fails to comply with any requirement or standard of an 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.
3. Respondent agrees 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 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. In addition, Respondent waives its right to confer with the Administrator pursuant to RCRA § 6001(b)(2), 42 U.S.C. § 6961(b)(2).
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
6. Respondent shall bear its own costs and attorney's fees.
7. The person signing this CA on behalf of the Respondent certifies to EPA by his or her signature herein that Respondent, as of the date of this CA, is in compliance with the provisions of RCRA, Subtitle I, 42 U.S.C. §§ 6991-6991m, and the District UST management program at the Facility referenced herein.
8. The provisions of this CAFO shall be binding upon Respondent, and its officers, directors, employees, successors and assigns.
9. 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 of any regulations promulgated or authorized 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 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.

11. EPA has given the District of Columbia 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**

12. EPA has jurisdiction over this matter pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, and 40 C.F.R. § 22.1(a)(4).
13. At all times relevant to this CAFO, Respondent has been a department or agency of the Federal government as referred to in Section 9007 of RCRA, 42 U.S.C. § 6991f.
14. Respondent is a “person” as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 20 DCMR § 6899.1.
15. At all times relevant to this CAFO, Respondent has been the “operator” and/or “owner” of “underground storage tank(s) and “underground storage tank system(s), as those terms are defined in Sections 9001(3),(4) and (10) of RCRA, 42 U.S.C. §§ 6991(3),(4) and (10), and 20 DCMR § 6899.1, at the Kenilworth Maintenance Yard facility located at 3200 Benning Road, NE in Washington, DC.
16. The underground storage tank systems referenced immediately above include two (2) 6,000 gallon underground storage tanks for diesel and gasoline, respectively, that were installed in 1995, which are “new tank system(s)” and “petroleum UST system(s)”, as those terms are defined in Section 9001(6) of RCRA, 42 U.S.C. § 6991(6), and 20 DCMR § 6899.1.
17. On March 27, 2014, an EPA contractor conducted an inspection at the Facility pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.
18. EPA followed up the March 27, 2014 inspection with emails sent to the Facility’s System Specialist on April 30, 2014 and May 28, 2014.

**COUNT I - FAILURE TO CONDUCT ANNUAL LINE LEAK DETECTOR TESTING**

19. Paragraphs 1 through 18, above, are incorporated by reference as if fully set forth herein.
20. At all times relevant to this CAFO, the piping associated with the petroleum UST systems described in Paragraph 16, above, routinely contained “regulated substance(s)”, as such term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1, was designed to convey such regulated substances under pressure, and was

equipped with a mechanical automatic line leak detector.

21. Pursuant to 20 DCMR § 6013.2, owners or operators are required to conduct annual tests of the operation of automatic line leak detectors, in accordance with the manufacturer's requirements.
22. Respondent failed to conduct annual operational testing of the automatic line leak detectors on the pressurized piping associated with the petroleum UST systems described in Paragraph 16, above, from June 16, 2012 through April 23, 2014.
23. Respondent's acts and/or omissions as alleged in Paragraph 22, above, constitute violations by Respondent of 20 DCMR § 6013.2.

**COUNT II - FAILURE TO MAINTAIN RECORDS OF PIPING RELEASE DETECTION**

24. Paragraphs 1 through 23, above, are incorporated by reference as if fully set forth herein.
25. Pursuant to 20 DCMR § 6001.3, owners and operators are required to maintain results of sampling, testing and monitoring of UST systems for at least three (3) years, including results of piping release detection required by 20 DCMR § 6004.3.
26. Respondent failed to maintain records of pipe release detection from June 16, 2012 through April 23, 2014.
27. Respondent's acts and/or omissions as alleged in Paragraph 26, above, constitute violations of 20 DCMR § 6001.3.

**CIVIL PENALTY**

28. Respondent agrees to pay a civil penalty in the amount of fifteen thousand eight hundred ninety-two dollars (\$15,892) in full satisfaction of all EPA claims for civil penalties under 9006 of RCRA, 40 U.S.C. § 6991c, for the violations alleged above. The civil penalty amount is due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO.
29. 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 Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), and with EPA's Penalty Guidance for Violations of UST Regulations ("UST Guidance") dated November 4, 1990.

30. Respondent shall pay the amount described in Paragraph 28, above, by sending a certified or cashier's check payable to the "United States Treasury," as follows:

a. Mailing (*via first class U.S. Postal Service Mail*) a certified or cashier's check, made payable to the United States Treasury to the following address

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  
Molly Williams 513-487-2076

b. Via Overnight Delivery of a certified or cashier's check, made payable to the United States Treasury, sent to the following address:

U.S. Bank  
Government Lockbox 979077  
US EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
314-418-1028

c. All payment 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

d. By electronic funds transfer (EFT) to the following account:

Federal Reserve Bank of New York  
ABA 021030004  
Account No. 68010727  
SWIFT Address FRNYUS33

33 Liberty Street  
NY, NY 10045  
(Field tag 4200 of Fedwire message should read D  
68010727 Environmental Protection Agency)

e. By automatic clearinghouse (“ACH”) to the following account:

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

Contact: John Schmid  
202-874-7026

f. Online payments can be made at [WWW.PAY.GOV](http://WWW.PAY.GOV) by entering “sfo 1.1” in the search field, and opening the form and completing the required fields.

g. 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)

All payments shall also reference the above case caption and docket number, DOCKET NO.: RCRA-03-2015-0176. At the same time that any payment is made, Respondent shall mail copies of any corresponding check, or provide written notification confirming any electronic wire transfer, automated clearinghouse or online payment to Lydia A. Guy, Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029 and to Melissa Toffel (3LC70), U.S. Environmental Protection Agency, Region III, Office of Land Enforcement, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029.

**FULL AND FINAL SATISFACTION**

31 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.

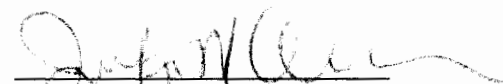
**For Respondent: National Park Service/National Capital Parks- East**

6/12/15  
Date

  
Gopaul Noojibail, Park Superintendent  
National Park Service/National Capital Parks- East

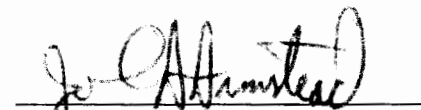
**For Complainant: U.S. Environmental Protection Agency, Region III**

6/18/15  
Date

  
Jennifer M. Abramson  
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.

6.29.15  
Date

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

**RESERVATION OF RIGHTS**

32. 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**

33. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed on it by applicable federal, state or local law and/or regulations. Nothing in this CA shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341, or other applicable law.

**AUTHORITY TO BIND THE PARTIES**

34. 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.

**ENTIRE AGREEMENT**

35. 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.

**EFFECTIVE DATE**

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



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

In the Matter of:

National Park Service/National Capital  
 Parks –East  
 1900 Anacostia Drive, S.E.  
 Washington, DC 20020

RESPONDENT,

Kenilworth Maintenance Yard  
 3200 Benning Road, NE  
 Washington, DC 20019

FACILITY.

)  
 ) Docket No.: RCRA-03-2015-0176

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

)  
 ) **FINAL ORDER**

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 REGION III PHILADELPHIA, PA

**FINAL ORDER**

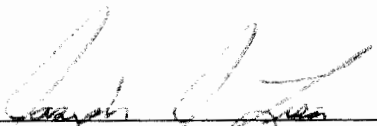
Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, National Park Service/National Capital Parks -East, have executed a document entitled “Consent Agreement” which I hereby ratify as a Consent Agreement in accordance with the Consolidated 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 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)). 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** 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) of RCRA, 42 U.S.C. § 6991e(c), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of fifteen thousand eight hundred ninety-two dollars (\$15,892) 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 June 30, 2015

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

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

In the Matter of:	)	
	)	
National Park Service /National Capital Parks – East 1900 Anacostia Drive, S.E. Washington, DC 20020	)	Docket No.: RCRA-03-2015-0176
	)	Proceeding Under Section 9006 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6991e
RESPONDENT,	)	
	)	CONSENT AGREEMENT
Kenilworth Maintenance Yard 3200 Benning Road, NE Washington, DC 20019	)	
	)	
FACILITY.	)	

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:**

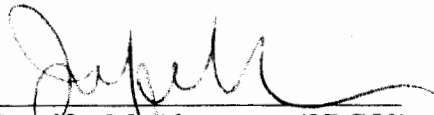
Lydia Guy, Regional Hearing Clerk

**Copy by Certified Mail**

Roland Blackman (MS: 5311)  
 Office of the Solicitor  
 Department of the Interior  
 1849 C St., NW  
 Washington, DC 20240

**JUN 30 2015**

Date

  
 \_\_\_\_\_  
 Jennifer M. Abramson (3RC50)  
 Senior Assistant Regional Counsel  
 U.S. EPA, Region III

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