



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 10 2009

REPLY TO THE ATTENTION OF

LR-8J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Dorval Carter
Acting President
Chicago Transit Authority
567 West Lake Avenue
Chicago, Illinois 60661

Re: Consent Agreement and Final Order
Chicago Transit Authority
EPA ID Nos.: ILD984774190
ILD984774133
ILD984774141
ILD984774208
ILD020032199

RECEIVED

MAR 10 2009

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

Docket No: RCRA-05-2009-0008

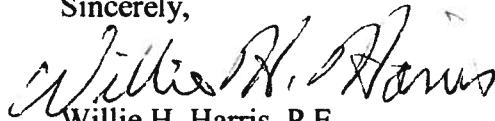
Dear Mr. Carter:

Enclosed please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The originals were filed on MAR 10 2009, with the Regional Hearing Clerk (RHC).

Please pay the civil penalty in the amount of \$5,513 in the manner prescribed in paragraphs 98 and 99 of the CAFO; and reference all checks with the number BD 2750942R004 and docket number RCRA-05-2009-0008. Your payment is due within 30 calendar days of the effective date of the CAFO. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Willie H. Harris".

Willie H. Harris, P.E.

Chief, RCRA Branch

Land and Chemicals Division

Enclosures

cc: Todd Marvel, Illinois Environmental Protection Agency (w/CAFO)
Eugene Munin, CTA, Acting General Counsel (w/CAFO)
Carla D. Davis, CTA, Chief Attorney (w/CAFO)

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

**Chicago Transit Authority
Chicago, Illinois**

Respondent.

)
) **DOCKET NO. RCRA-05-2009-0008**
)

) **Proceeding to Assess a Civil Penalty**
) **Under Section 3008(a) of the Resource**
) **Conservation and Recovery Act,**
) **42 U.S.C. § 6928(a)**
)

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MAR 10 2009

Consent Agreement and Final Order

Preliminary Statement

**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.
3. EPA provided notice of commencement of this action to the State of Illinois pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
4. The Respondent is Chicago Transit Authority (Respondent), which is and was at all times relevant to this Complaint, an authority under the laws of the State of Illinois, and the owner and operator of a headquarters at 567 West Lake Street, Chicago, Illinois 60661, and of

five facilities, as defined at 35 Illinois Administrative Code (IAC) Section 720.110, located at:

- a. 9800 South State, Chicago, Illinois, 60628 (“Red Line Service Center”)
- b. 7800 South Vincennes, Chicago, Illinois, 60620 (“77th Street/South Shops”)
- c. 313 East 63rd Street, Chicago, Illinois, 60629 (“63rd Street/Lower Yard”)
- d. 3901 West Maypole, Chicago, Illinois, 60624 (“West Shops”)
- e. 3701 West Oakton Street, Skokie, Illinois 60076 (“Skokie Shops”)

5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 2002(a)(1), 3006(b), and 3008 of RCRA; 42 U.S.C. §§ 6912(a)(1), 6926(b), and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6992k, and the regulations at 40 C.F.R. §§ 260.1 – 279.82.

Statutory and Regulatory Background

12. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store and dispose of hazardous waste, including used oil.

13. Under Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated under Subchapter III (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or of any state provision authorized under Section 3006 of RCRA, 42 U.S.C. § 6926, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Under Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of EPA granted the State of Illinois final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective on January 31, 1986. 51 Fed. Reg. 3778 (January 30, 1986). The Administrator of EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective March 5, 1988, 53 Fed. Reg. 126 (January 5, 1988); April 30, 1990, 55 Fed. Reg. 7320 (March 1, 1990); June 3, 1991, 56 Fed. Reg. 13595 (April 3, 1991); August 15, 1994, 59 Fed. Reg. 30525 (June 14, 1994); May 14, 1996, 61 Fed. Reg. 10684 (March 15, 1996); October 4, 1996, 61 Fed. Reg. 40520 (August 5, 1996). The EPA-authorized Illinois regulations are codified at Title 35 IAC Part 702 *et seq.* See also, 40 C.F.R. § 272.700 *et seq.*

15. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), provides EPA with the authority to enforce state regulations in those states authorized to administer a hazardous waste program.

16. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both.

17. Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), prohibits the treatment, storage, or disposal of hazardous waste except in accordance with a permit. It requires each person owning or operating a facility at which hazardous waste is treated, stored or disposed (TSD facility or TSDF) to have a permit issued by EPA or the authorized state. EPA has promulgated regulations at 40 C.F.R. Part 270 that establish permitting requirements and procedures. The federally-authorized Illinois regulations that govern (in lieu of analogous federal regulations) the issuance of permits are codified at 35 IAC Parts 702 and 703.

18. Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), includes a provision for “interim status” which allows TSD facilities to operate in certain circumstances pending receipt of a permit. EPA promulgated standards at 40 C.F.R. Part 265 that are applicable to facilities subject to interim status requirements. The federally-authorized Illinois regulations that govern (in lieu of analogous federal regulations) the interim status standards for owners and operators of hazardous waste TSD facilities are codified at 35 IAC Part 725.

19. Under 35 IAC § 720.110 [40 C.F.R. § 260.10], a “person” means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body.

20. Under 35 IAC § 720.110 [40 C.F.R. § 260.10], a “generator” means any person, by site, whose act or process produces hazardous waste identified or listed in 35 IAC Part 721 [40 C.F.R. Part 261] or whose act first causes a hazardous waste to become subject to regulation.

21. Under 35 IAC § 720.110 [40 C.F.R. § 260.10], a “small quantity generator” means a generator who generates more than 100 kilograms of hazardous waste in a calendar month, but less than 1000 kilograms in a calendar month.

22. Under 35 IAC § 720.110 [40 C.F.R. § 260.10], “storage” means the holding of hazardous waste for a temporary period at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

23. Under 35 IAC § 739.100 [40 C.F.R. § 279.1], a “used oil generator” means a generator who generates used oil as a waste.

24. Facilities that treat, store, or dispose of hazardous waste must obtain a permit or interim status pursuant to 35 IAC § 703.121(a), and Sections 3005 and 3006 of RCRA, 42 U.S.C. §§ 6925-6926. See also, 40 C.F.R. §§ 270.1, 270.10(a) and 270.10(d).

25. Under 35 IAC § 722.134(a) [40 C.F.R. § 262.34(a)], generators of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the generator complies with the following provisions: 35 IAC §§ 722.134(a)(1)(A), (a)(1)(B), (a)(2), (a)(3) and (a)(4) [40 C.F.R. §§ 262.34(a)(1)(A), (a)(1)(B), (a)(2), (a)(3) and (a)(4)].

Factual Allegations and Alleged Violations

26. Respondent is a person as defined under 35 IAC § 720.110 [40 C.F.R. § 260.10].

27. Respondent has a North American Industry Classification System (NAICS) code of 48511.

28. Respondent is a provider of public transportation services to the Chicagoland area.

29. Respondent generates and/or stores “solid wastes” at the facilities listed in paragraphs 4a-e as defined in 35 IAC § 721.102 [40 C.F.R. § 261.2].

30. Respondent generates and stores “hazardous waste” at the facilities listed in paragraphs 4a-e, as defined in 35 IAC § 721.103 [40 C.F.R. § 261.3].

31. Respondent characterizes this “hazardous waste” as D002, a waste corrosive liquid; D008, waste lead paint and solvents; D001, waste solvents; and D001, waste fuel in the manifests and annual reports produced for the facilities listed in paragraphs 4a-e.

32. Respondent generally and specifically notified the Illinois Environmental Protection Agency (IEPA) on or about January 1, 1980, and at points thereafter through annual reporting that it generates these hazardous wastes.

33. Respondent generally notified the EPA on or about January 1, 1980 that it generates these hazardous wastes in an amount greater than 1000 kilograms a month, and has provided one-time notices thereafter of such occurrences at Respondent’s facilities, as applicable.

34. Each year from 2004-2007, Respondent generated hazardous waste at each facility listed in paragraphs 4a-e and transported, or offered for transport, the hazardous waste for offsite treatment, storage, or disposal.

35. Respondent has never filed, with the EPA or with the IEPA, a RCRA Part A Permit Application for the storage of hazardous waste at any of the facilities listed in paragraphs 4a-e.

36. Respondent has never operated under interim status, pursuant to 35 IAC § 703.121(a), for the storage of RCRA hazardous waste.

37. Respondent is a “generator” of hazardous waste under 35 IAC § 720.110 [40 C.F.R. § 260.10], and is subject to regulation under 35 IAC Part 722 [40 C.F.R. Part 262].

38. Respondent is a “used oil generator” under 35 IAC § 739.100 [40 C.F.R. § 279.1].

39. On or about May 23 and 25, 2006, EPA conducted compliance evaluation inspections at Respondent’s Red Line Service Center, 77th Street/South Shops and West Shops

facilities, to determine compliance with Illinois hazardous waste management regulations.

40. On or about May 24, 2006, EPA conducted non-financial record reviews at Respondent's Red Line Service Center, 77th Street/South Shops, West Shops, 63rd Street/Lower Yard and Skokie Shops facilities to determine compliance with Illinois hazardous waste management regulations.

41. On September 26, 2006, EPA issued a Notice of Violation (NOV) to Respondent regarding the results of the inspections mentioned in paragraphs 39-40.

42. On or about April 23 and 25, 2007, EPA conducted inspections at Respondent's Red Line Service Center, 77th Street/South Shops and West Shops, in order to follow-up on previous findings as well as responses to the September 26, 2006 NOV.

43. As a result of the May 23 and 25, 2006 compliance evaluation inspections, the May 24, 2006 non-financial record reviews, the September 26, 2006 Notice of Violation and responses, and the April 23 and 25, 2007 inspections at Respondent's facilities, EPA has determined the following:

COUNT 1:

Hazardous Waste Recordkeeping & Reporting Violations: Manifests

44. Complainant incorporates paragraphs 1 through 43 of this CAFO as though set forth in this paragraph.

45. Under 35 IAC § 722.120 [40 C.F.R. § 262.20], a generator who transports, or offers for transportation, hazardous waste for offsite treatment, storage or disposal must prepare a manifest.

46. Under 35 IAC § 722.140(a) [40 C.F.R. § 262.40(a)], a generator must keep a copy of each manifest signed in accordance with 35 IAC § 722.123(a) for three years or until it receives a

signed copy from the designated facility that received the waste.

47. Under 35 IAC § 722.140(a) [40 C.F.R. § 262.40(a)], this signed manifest copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

48. During the U.S. EPA's May 23, 2006 inspection, there were no manifests for hazardous waste transport maintained at the Respondent's Red Line Service Center facility.

49. During the U.S. EPA's May 23, 2006 inspection, there were no manifests for hazardous waste transport maintained at the Respondent's 77th Street/South Shops facility.

50. During the U.S. EPA's May 24, 2006 review, there were no manifests for hazardous waste transport maintained at the Respondent's 63rd Street Lower Yard facility.

51. During the U.S. EPA's May 24, 2006 review, there were no manifests for hazardous waste transport maintained at the Respondent's Skokie Shops facility.

52. During the U.S. EPA's May 25, 2006 inspection, there were no manifests for hazardous waste transport maintained at the Respondent's West Shops facility.

53. As noted above in paragraph 41, on or about September 26, 2006, Respondent received by mail from EPA an NOV addressing, in part, deficiencies in hazardous waste recordkeeping and reporting program.

54. During the EPA's April 23, 2007 inspection, there were no manifests for hazardous waste transport maintained at the Respondent's 77th Street/South Shops facility.

55. By failing to maintain manifests documenting hazardous waste transport as described in paragraphs 48-52 and 54, Respondent violated 35 IAC § 722.140(a) [40 C.F.R. § 262.40(a)].

COUNT 2:

Hazardous Waste Recordkeeping & Reporting Violations: Annual Reporting

56. Complainant incorporates paragraphs 1 through 43 of this CAFO as though set forth in this paragraph.

57. Under 35 IAC § 722.141, a generator that ships any hazardous waste off-site to a treatment, storage, or disposal facility within the United States must prepare a single copy of an annual report to IEPA by March 1 for the preceding calendar year.

58. Under 35 IAC § 722.142 [40 C.F.R. § 262.42], a generator of greater than 1,000 kilograms of hazardous waste in a calendar month must submit an exception report to the Agency if the generator has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter.

59. Under 35 IAC § 722.140(b) [40 C.F.R. § 262.40(b)], a generator must keep a copy of each annual report and exception report for a period of at least three years from the due date of the report.

60. During the U.S. EPA's May 23, 2006 inspection, there were no annual reports or exception reports regarding hazardous waste transport maintained at the Respondent's Red Line Service Center facility.

61. During the U.S. EPA's May 23, 2006 inspection, there were no annual reports or exception reports regarding hazardous waste transport maintained at the Respondent's 77th Street/South Shops facility.

62. During the U.S. EPA's May 24, 2006 review, there were no annual reports or exception reports regarding hazardous waste transport maintained at the Respondent's 63rd Street Lower Yard facility.

63. During the U.S. EPA's May 24, 2006 review, there were no annual reports or exception reports regarding hazardous waste transport maintained at the Respondent's Skokie Shops facility.

64. During the U.S. EPA's May 25, 2006 inspection, there were no annual reports or exception reports regarding hazardous waste transport maintained at the Respondent's West Shops facility.

65. As noted above in paragraph 41, on or about September 26, 2006, Respondent received by mail from EPA an NOV addressing, in part, deficiencies in hazardous waste recordkeeping and reporting including deficiencies in annual report and exception report maintenance.

66. During the EPA's April 23, 2007 inspection, there were no annual reports or exception reports regarding hazardous waste transport maintained at the Respondent's 77th Street/South Shops facility.

67. By failing to maintain annual reports and exception reports documenting hazardous waste transport activity as described in paragraphs 60-64 and 66, Respondent violated 35 IAC § 722.140(b) [40 C.F.R. § 262.40(b)].

COUNT 3:

Hazardous Waste Analysis Recordkeeping and Reporting Violations: Waste Analyses

68. Complainant incorporates paragraphs 1 through 43 of this CAFO as though set forth in this paragraph.

69. During calendar years 2003-2007, Respondent had test results, waste analyses, or other determinations made in accordance with 35 IAC § 722.111 [40 C.F.R. § 262.11].

70. Under 35 IAC § 722.140(c) [40 C.F.R. § 262.40(c)], a generator must keep records

of any test results, waste analyses, or other determinations made in accordance with 35 IAC § 722.111 [40 C.F.R. § 262.11] for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

71. During the U.S. EPA's May 23, 2006 inspection, there were no test results, waste analyses or other determinations regarding hazardous waste transport maintained at the Respondent's Red Line Service Center facility.

72. During the U.S. EPA's May 23, 2006 inspection, there were no test results, waste analyses or other determinations regarding hazardous waste transport maintained at the Respondent's 77th Street/South Shops facility.

73. During the U.S. EPA's May 24, 2006 review, there were no test results, waste analyses or other determinations regarding hazardous waste transport maintained at the Respondent's 63rd Street Lower Yard facility.

74. During the U.S. EPA's May 24, 2006 review, there were no test results, waste analyses or other determinations regarding hazardous waste transport maintained at the Respondent's Skokie Shops facility.

75. During the U.S. EPA's May 25, 2006 inspection, there were no test results, waste analyses or other determinations regarding hazardous waste transport maintained at the Respondent's West Shops facility.

76. As noted above in paragraph 41, on or about September 26, 2006, Respondent received by mail from EPA an NOV addressing, in part, deficiencies in hazardous waste recordkeeping and reporting program with regard to the waste analyses.

77. During the EPA's April 23, 2007 inspection, there were no test results, waste analyses, or other determinations made in accordance with 35 IAC § 722.111 [40 C.F.R. § 262.11]

maintained at the Respondent's 77th Street/South Shops facility.

78. By failing to maintain test results, waste analyses, or other determinations made in accordance with 35 IAC § 722.111 [40 C.F.R. § 262.11] as described in paragraphs 71-75 and 77, Respondent violated 35 IAC § 722.140(c) [40 C.F.R. § 262.40(c)].

COUNT 4:

Used Oil Storage Violations: Failure to Respond to Release, Or, Alternatively, Improper Storage

79. Complainant incorporates paragraphs 1 through 43 of this CAFO as though set forth in this paragraph.

80. Under 35 IAC § 739.122(d) [40 C.F.R. § 279.22(d)], a used oil generator must, upon detection of a release of used oil, perform the following clean up steps:

- a. Stop the release;
- b. Contain the released used oil;
- c. Properly clean up and manage the released used oil and other materials; and
- d. If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

81. Under 35 IAC § 739.122(a) [40 C.F.R. § 279.22(a)], a used oil generator may not store used oil in units other than tanks, containers, or units subject to regulation under 35 IAC Parts 724 or 725 [40 C.F.R. Parts 264 or 265].

82. During the U.S. EPA's May 23, 2006 inspection, there were at least two used oil storage tanks located in the basement of the Respondent's 77th Street/South Shops facility.

83. During the U.S. EPA's April 23, 2007 inspection, there were at least two used oil storage tanks located in the basement of the Respondent's 77th Street/South Shops facility.

84. At all times relevant to this Complaint, the floor of the basement of Respondent's

77th Street/South Shops facility was not a tank, container, or unit subject to regulation under 35 IAC Parts 724 or 725 [40 C.F.R. Parts 264 or 265].

85. During the EPA's May 23, 2006 inspection, there was a pool of used oil adjacent to the used oil storage tanks on the floor of the basement of the Respondent's 77th Street/South Shops facility.

86. The EPA inspector estimated the volume of the pool of used oil described in paragraph 85 to be approximately 50 gallons.

87. The pool of used oil described in paragraphs 85-86 was a release of used oil not subject to the requirements of Subpart F of 40 C.F.R. Part 280.

88. During the EPA's May 23, 2006 inspection, Respondent failed to ensure that the used oil release described in paragraphs 85-87 was contained, properly cleaned up and managed.

89. During the EPA's April 23, 2007 inspection, there was a pool of used oil adjacent to the used oil storage tanks on the floor of the basement of the Respondent's 77th Street/South Shops facility.

90. The EPA inspector estimated the volume of the pool of used oil described in paragraph 89 to be approximately 10 gallons.

91. The pool of used oil described in paragraphs 89-90 was a release of used oil not subject to the requirements of Subpart F of 40 C.F.R. Part 280.

92. During the EPA's April 23, 2007 inspection, Respondent failed to ensure that the used oil release described in paragraphs 89-91 was contained, properly cleaned up and managed.

93. By failing to ensure that the used oil releases were contained, properly cleaned up and managed as described in paragraphs 85-91, Respondent violated 35 IAC § 739.122(d) [40 C.F.R. § 279.22(d)].

94. Alternatively, by allowing the pools of used oil to remain on the floor as described in paragraphs 85 and 89, Respondent was storing used oil on the floor of the used oil room.

95. By storing used oil on the floor of the used oil storage room, Respondent was storing used oil outside of tanks, containers, or units subject to regulation under 35 IAC Parts 724 or 725 [40 C.F.R. Parts 264 or 265].

96. By storing used oil outside of tanks, containers, or units subject to regulation under 35 IAC Parts 724 or 725 [40 C.F.R. Parts 264 or 265], Respondent violated 35 IAC § 739.122(a) [40 C.F.R. § 279.22(a)].

Civil Penalty

97. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$5513. In determining the penalty amount, Complainant took into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements and Respondent's agreement to perform a supplemental environmental project. Complainant also considered U.S. EPA's *RCRA Civil Penalty Policy*, dated June 23, 2003.

98. Within 30 days after the effective date of this CAFO, Respondent must pay a \$5513 civil penalty for the RCRA violations. Respondent must pay the penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

[for checks sent by regular U.S. Postal Service mail]

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

[for checks sent by express mail]

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

The check must note In the matter of Chicago Transit Authority, the docket number of this CAFO and the billing document number.

99. A transmittal letter, stating, Respondent's name, the case title, Respondent's complete address, the case docket number and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-13J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Daniel Chachakis (LR-8J)
RCRA Branch
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Erik Olson (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

100. This civil penalty is not deductible for federal tax purposes.

101. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any

principal amount 90 days past due.

Supplemental Environmental Project

102. Respondent must complete a supplemental environmental project (SEP) designed to protect the environment by preventing pollution associated with spills of used oil and other hazardous substances at one of its facilities, as described directly below.

103. At its 77th Street/South Shops facility, Respondent must complete the SEP by August 15, 2009, as follows:

- a. Install an overflow alarm and automatic shut-off system for all above ground lubricating oil, waste oil, and antifreeze tanks located in the basement of the facility; and
- b. Install a spill containment and sump connected to the existing industrial waste discharge line upstream of the facility's oil/water separator system. Respondent will install the spill containment and sump to collect any product spilled during connection and disconnection of bulk trailers to inlet receptacles for bulk oil, waste oil, and antifreeze outside the facility.

104. Respondent must spend at least \$20,672 to purchase the equipment.

105. Respondent must continuously use or operate the equipment installed as the SEP for at least one year following its installation.

106. Respondent certifies that it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Respondent further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

107. The U.S. EPA may inspect the facility at any time to monitor Respondent's

compliance with this CAFO's SEP requirements.

108. Respondent must submit a SEP completion report to U.S. EPA by August 15, 2009.

This report must contain the following information:

- a. Detailed description of the SEP as completed;
- b. Description of any operating problems and the actions taken to correct the problems;
- c. Itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services;
- d. Certification that Respondent has completed the SEP in compliance with this CAFO; and
- e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

109. Respondent must submit all notices and reports required by this CAFO by first class mail to Mr. Daniel Chachakis of the RCRA Branch.

110. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

111. Following receipt of the SEP completion report described in paragraph 108, above, U.S. EPA must notify Respondent in writing that:

- a. Respondent has satisfactorily completed the SEP and the SEP report.
- b. There are deficiencies in the SEP as completed or in the SEP report and U.S. EPA will give Respondent 30 days to correct the deficiencies; or

- c. It has not satisfactorily completed the SEP or the SEP report and U.S. EPA will seek stipulated penalties under paragraph 113.

112. If U.S. EPA exercises option b, above, Respondent may object in writing to the deficiency notice within ten days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Respondent a written decision on its objection. Respondent will comply with any requirements that U.S. EPA imposes in its decision. If Respondent does not complete the SEP as required by U.S. EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 113, below.

113. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

- a. If Respondent has spent less than the amount set forth in paragraph 104, above, Respondent must pay a stipulated penalty equal to the difference between the amount it spent on the SEP and the amount set forth in paragraph 104.
- b. If Respondent has completed the SEP, but the SEP is not satisfactory, Respondent must pay \$5,000, in addition to any penalty required under subparagraph a, above.
- c. If Respondent halts or abandons work on the SEP, Respondent must pay a stipulated penalty of \$5,000, in addition to the penalty required under subparagraph a, above. Such penalties will accrue as of the date for completing the SEP or the date performance ceases, whichever is earlier.
- d. If Respondent fails to comply with the schedule in paragraph 108 for implementing the SEP, fails to submit timely the SEP completion report, Respondent must pay stipulated penalties for each failure to meet an applicable milestone, as follows:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$100	1 st through 14 th day
\$200	15 through 30 th day
\$500	31 st day and beyond

These penalties will accrue from the date Respondent was required to meet each milestone until

it achieves compliance with the milestone.

114. The U.S. EPA's determination of whether Respondent satisfactorily completed the SEP will bind Respondent.

115. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraph 98, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

116. Any public statement that Respondent makes referring to the SEP must include the following language, "The Chicago Transit Authority undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against CTA for violations of the requirements for generators of hazardous waste and the used oil regulations under the Resource Conservation and Recovery Act."

117. Nothing in this CAFO is intended to, nor will be construed to, constitute U.S. EPA approval of the equipment or technology installed by the Respondent in connection with the SEP under the terms of this CAFO.

118. For Federal Income Tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

General Provisions

119. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

120. This CAFO does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

121. This CAFO does not affect Respondent's responsibility to comply with RCRA and

other applicable federal, state, local laws or permits.

122. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, the U.S. EPA's RCRA Civil Penalty Policy, and the U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

123. The terms of this CAFO bind Respondent, its successors, and assigns.

124. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

125. Each party agrees to bear its own costs and attorney's fees in this action.

126. This CAFO constitutes the entire agreement between the parties.

Chicago Transit Authority, Respondent

Date


 1/27/09

Ron Huberman
President
Chicago Transit Authority

United States Environmental Protection Agency, Complainant

2/5/09

Date



Margaret M. Guerriero
Director
Land and Chemicals Division

RECEIVED
MAR 10 2009

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

In the Matter of:
Chicago Transit Authority
Docket No. RCRA-05-2009-0008

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

2/6/09
Date

Walter W. Kovalich
for
Bharat Mathur
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

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MAR 10 2009

**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**

CASE NAME: Chicago Transit Authority
DOCKET NO: RCRA-05-2009-0008

CERTIFICATE OF SERVICE

I hereby certify that today, I filed the original of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (R-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed via Certified Mail, Return Receipt Requested to the following:

Mr. Dorval Carter, Acting President
Chicago Transit Authority
567 West Lake Avenue
Chicago, Illinois 60661

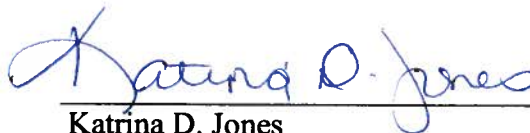
Return Receipt # 7001 0320 0006 1448 7364

And

Mr. Ronald Coupet
Designated EHS Contact
Chicago Transit Authority
567 West Lake Street
Chicago, Illinois 60661

Return Receipt # 7001 0320 0006 1448 7340

Dated: 3/10/09



Katrina D. Jones
Administrative Program Assistant
United States Environmental Protection Agency
Land and Chemicals Division -RCRA Branch
77 W. Jackson Boulevard – LR-8J
Chicago, IL 60604-3590
(312) 886-2871

RECEIVED
MAR 10 2009

**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**