

**Greater Richmond Transit Company**  
101 South Davis Avenue  
Richmond, Virginia

**RCRA-03-2010-0089**

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

**In the Matter of:**

Greater Richmond Transit Company  
101 South Davis Avenue  
Richmond, Virginia 23220

**Docket No. RCRA-03-2010-0089**

**RESPONDENT,**

Greater Richmond Transit Company  
101 South Davis Avenue  
Richmond, Virginia 23220

**FACILITY.**

**CONSENT AGREEMENT**

**I. PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("EPA," "Agency" or "Complainant"), and the Greater Richmond Transit Company ("GRTC" or "Respondent") pursuant to Section 9006 of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act ("RCRA") of 1976, as amended (hereinafter "RCRA"), 42 U.S.C. § 6991e, and 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, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3). This Consent Agreement and the accompanying Final Order address violations by Respondent of RCRA and the Virginia Regulations for Underground Storage Tanks, 9 VAC Chapter 580, as authorized by EPA pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c.
2. Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, this Consent Agreement and the attached Final Order (hereinafter jointly referred to as this "CAFO")

simultaneously commence and conclude an administrative proceeding against Respondent, brought under Section 9006 of RCRA, 42 U.S.C. § 6991e, to resolve alleged violations of RCRA at Respondent's facility at 101 South Davis Avenue, Richmond Virginia, 23220 (the "Facility").

3. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
4. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this Consent Agreement, except as provided in Paragraph 3, above.
5. Respondent agrees not to contest EPA's jurisdiction with respect to the execution and issuance of this CAFO, or the enforcement of the CAFO.
6. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
7. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
8. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

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

9. EPA has given the Commonwealth of Virginia prior notice of the initiation of this action in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

**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:

10. Respondent, is, and has been at all times relevant to this Consent Agreement, the "owner" and "operator," as those terms are defined by Sections 9001(4) and (3) of RCRA, 42 U.S.C. § 6991(4) and (3), and 9 VAC 25-580-10 of the underground storage tanks ("USTs") and UST systems as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and 9 VAC 25-580-10 at the facility located at 101 South Davis Avenue, Richmond, Virginia ("Facility").
11. The Facility referred to in Paragraph 10, above, is a bus maintenance and fueling station, including the underground storage tanks and all associated equipment and structures.

12. Pursuant to 9 VAC 25-580-10, the term “underground storage tank” or “UST” means, in pertinent part: any one or combination of tanks (including connected underground pipes) that is used to contain an accumulation of regulated substances and the volume of which (including the underground pipes connected thereto) is ten percent (10%) or more beneath the surface of the ground.
13. On September 24, 2007, EPA conducted a Compliance Evaluation Inspection of the Facility (the “CEI”).
14. On March 19, 2009 and on May 15, 2009 EPA sent Information Request Letters to Respondent pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.
15. At the time of the September 24, 2007 CEI, and at all times relevant hereto, the following USTs, as described in the following subparagraphs, were located at the Facility:
  - A. A 6,000 gallon tank that was installed on or about February 1, 1982 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 (“Tank 1”).
  - B. A 4,000 gallon tank that was installed on or about May 1, 1993 and that, at all times relevant hereto, routinely contained motor 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 (“Tank 3”).
  - C. A 1,000 gallon tank that was installed on or about May 1, 1993 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 (“Tank 4”).
  - D. A 20,000 gallon tank that was installed on or about February 1, 1982 and that, at all times relevant hereto, routinely contained diesel fuel, 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 (“Tank 5”).
  - E. A 20,000 gallon tank that was installed on or about February 1, 1982 and that, at all times relevant hereto, routinely contained diesel fuel, 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 (“Tank 6”).
  - F. A 4,000 gallon tank that was installed on or about May 1, 1993 and that, at all times relevant hereto, routinely contained motor 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 (“Tank 7”).

16. From February 1, 1982, until the date of this Consent Agreement, Tanks 1, 5 and 6 at the Facility have been “petroleum UST systems” and “existing tank systems” as these terms are defined in 9 VAC 25-580-10.
17. From May 1, 1993, until the date of this Consent Agreement, Tanks 3, 4, and 7 at the Facility have been “petroleum UST systems” and “new tank systems” as these terms are defined in 9 VAC 25-580-10.
18. The USTs at the Facilities are and were, at all times relevant to this CAFO, used to store “regulated substance(s)” at Respondent’s Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7) and 9 VAC 25-580-10.

#### **COUNT I**

##### **(Failure to Provide Release Detections)**

19. The allegations of Paragraphs 1 through 18, above, are incorporated herein by reference as though fully set forth.
20. 9 VAC 25-580-140(1) requires, with exceptions not applicable here, that owners and operators of petroleum UST systems monitor tanks at least every thirty days for releases using one of the methods listed in subsections 4 through 8 of 9 VAC 25-580-160.
21. Respondent did not monitor Tanks 3, 4 and 7 for releases at least every 30 days from September 1, 2004 through June 30, 2009.
22. Respondent violated 9 VAC 25-580-140(1) by failing to provide release detection for Tanks 3, 4 and 7.

#### **COUNT II**

##### **(Failure to Provide a Line Leak Detector)**

23. The allegations of Paragraphs 1 through 22, above, are incorporated herein by reference as though fully set forth.

24. 9 VAC 25-580-140(2)(a)(1) requires underground piping that routinely contains regulated substances and conveys regulated substances under pressure be equipped with an automatic line leak detector.
25. 9 VAC 25-580-170 requires that automatic line leak detectors used as a method of release detection for piping meet the requirements of 9 VAC 25-580-140 be capable of detecting a leak of three gallons per hour at ten pounds per square inch line pressure within one hour.
26. Respondent utilized a line leak detector to detect leaks on the pressurized piping that routinely contains regulated substances associated with Tanks 5 and 6 that was not capable of detecting a leak of three gallons per hour at ten pounds per square inch line pressure within one hour from September 30, 2004 through May 13, 2009.
27. Respondent violated 9 VAC 25-580-170 by utilizing a line leak detector to detect leaks on the pressurized piping that routinely contains regulated substances associated with Tanks 5 and 6 that was not capable of detecting a leak of three gallons per hour at ten pounds per square inch line pressure within one hour from September 30, 2004 through May 13, 2009.

### COUNT III

#### **(Failure to Investigate a Suspect Release)**

28. The allegations of Paragraphs 1 through 27, above, are incorporated herein by reference as though fully set forth.
29. 9 VAC 25-580-190(3) requires owners and operators of UST systems to report to the Virginia State Water Control Board (the "Board") within 24 hours and follow the procedures in 9 VAC 25-580-210 when monitoring results from a release detection method required under 9 VAC 25-580-140 and 9 VAC 580-150 indicate a release may have occurred, absent a circumstance listed in 9 VAC 25-580-190(3)(a) and (b).
30. 9 VAC 25-580-210 provides that unless corrective action is initiated in accordance with Part VI (9 VAC 25-580-230 *et seq.*), owners and operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under 9 VAC 25-580-190 within seven days, or another reasonable time period specified by the Board on written request made and approved within seven days after reporting of the suspected release.
31. Respondent used Automatic Tank Gauging ("ATG") as the method of release detection required under 9 VAC 25-580-140 and 9 VAC 580-150 for, *inter alia* Tank 1 at the Facility.

32. The ATG release detection results for Tank 1 indicated a failed test result, indicating a potential release on twenty-eight (28) occasions between September 12, 2004 through March 1, 2009.
33. No circumstance listed in 9 VAC 25-580-190(3)(a) and (b) existed at the Facility from September 12, 2004 through March 1, 2009 and accordingly the potential release was required to be reported to the Board, pursuant to 9 VAC 25-580-190(3), within twenty-four hours.
34. Respondent did not investigate the cause of the failed ATG release detection results and associated suspected release from September 12, 2004 through March 1, 2009.
35. Respondent did not make a written request to the Board for another reasonable period of time in which to investigate the suspected release, as provided by 9 VAC 25-580-210.
36. Respondent violated 9 VAC 25-580-190(3) by failing to timely investigate the suspected releases indicated by the failed release detection results from the ATG for Tank 1 at the Facility from September 14, 2004 through March 1, 2009.

### **III. COMPLIANCE ORDER**

Pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, Respondent is hereby ordered to complete the following Compliance Tasks. Respondent shall submit to EPA a certification in the form set forth in Paragraph 39 of this CAFO that this Compliance Order has been implemented, the tasks completed, and Respondent is currently in compliance with the requirements of RCRA Subtitle I and 9 VAC Chapter 580 in accordance with the following schedule:

37. Within 30 (thirty) days after the Effective Date of this CAFO with the release detection requirements of 9 VAC 25-580-140(1) and (2).
38. Provide to EPA a copy of monthly release detection results for Tanks 3, 4 and 7 for the three months immediately following the Effective Date of this CAFO no later than 110 days after the Effective Date of this CAFO, except that no release detection records shall be required for any such tank that is placed in temporary closure pursuant to 9 VAC 25-580-310, provided that Respondent documents such temporary closure in accordance with the requirements of Paragraph 39 of this CAFO.
39. Submissions to EPA: Any notice, certification, data presentation, or other document submitted by a Respondent pursuant to this Consent Agreement which discusses, describes, demonstrates, or supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirements of this Consent

Agreement shall be certified, by a “responsible corporate officer” as that terms is defined at 40 C.F.R. § 270.11. The aforesaid certification shall provide the following statement above the signature of the responsible person signing the certification on behalf of a Respondent:

I certify under penalty of law that this document and all attachments are true, accurate and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Any notifications or submissions to EPA required by this Consent Agreement shall be sent to the attention of:

Marie Owens (3LC70)  
RCRA Enforcement and Compliance Team Leader  
Office of Land Enforcement  
United States Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

#### **IV. CIVIL PENALTIES**

40. Respondent shall pay a total civil penalty in the amount of **\$88,630**. 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 applicable requirements as provided in RCRA Section 9006(c) and(e), 42 U.S.C. § 6991e(c) and (e), EPA’s Penalty Guidance for Violations of UST Regulations (“UST Guidance”) dated November 4, 1990 and the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19. Such civil penalty amount shall become due and payable immediately upon Respondent’s receipt of a true and correct copy of this CAFO fully executed by all parties

and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO, the civil penalty must be paid no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent.

41. Respondent shall remit the civil penalty and any interest, administrative fees, and late payment penalties, by 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-03-2010-0089**.
- 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 to:

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

Contact: Eric Volck 513-487-2105

- 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 & Penalties  
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

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**RCRA-03-2010-0089**

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”

- F. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US 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: John Schmid 202-874-7026 OR REX, 1-866-234-5681

- 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)

At the time of payment, Respondent shall send a notice of such payment, including a copy of any check or electronic transfer, as appropriate, to:

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

and

Joyce A. Howell

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

42. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.
43. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment as specified in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
44. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
45. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

#### **V. RESERVATION OF RIGHTS**

46. 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 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 the Consolidated Rules of Practice at 40 C.F.R. § 22.18(c). Further, EPA reserves any

rights or remedies available under RCRA, the regulations promulgated thereunder, and any other federal laws and regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

**VI. OTHER APPLICABLE LAWS**

47. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

**VII. PARTIES BOUND**

48. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and/or directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of the Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind the Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

**VIII. FULL AND FINAL SATISFACTION**

49. The settlement set forth in this Consent Agreement shall resolve only Respondent's liability for federal civil penalties for the specific violations of RCRA Subtitle I and the Commonwealth of Virginia Authorized UST Management Program alleged herein.
50. EPA hereby agrees and acknowledges that payment of the civil penalty shall be in full and final satisfaction of all civil claims for penalties for the violations alleged in this CAFO.

**IX. EFFECTIVE DATE**

51. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Judicial Officer or Regional Administrator.

**Greater Richmond Transit Company**  
101 South Davis Avenue  
Richmond, Virginia

**RCRA-03-2010-0089**

For Respondent, Greater Richmond Transit Company:

Date: 3/25/10

By:  \_\_\_\_\_

**John Lewis, CEO**  
**GRTC Transit System**

**Greater Richmond Transit Company**  
101 South Davis Avenue  
Richmond, Virginia

**RCRA-03-2010-0089**

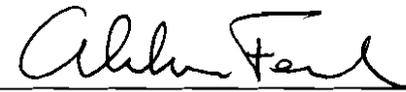
For Complainant, United States Environmental Protection Agency, Region III:

Date: 3/26/2010

By:   
Joyce A. Howell  
Senior Assistant Regional Counsel

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

3/26/10  
Date

By:   
Abraham Ferdas  
Director  
Land and Chemicals Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
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**In the Matter of:**

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RESPONDENT,

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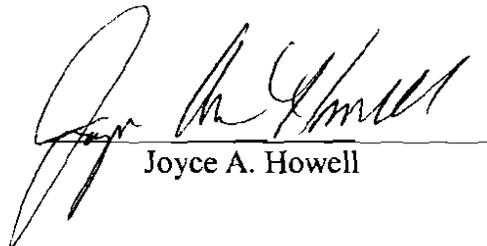
**Docket No. RCRA-03-2010-0089**

CERTIFICATE OF SERVICE

I certify that on the date noted below, I send by Federal Express, a copy of the CONSENT AGREEMENT AND FINAL ORDER to the addressee listed below. The original and two copies of the same were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Sean M. Sullivan  
Williams Mullen  
A Professional Corporation  
301 Fayetteville Street, Suite 1700  
Raleigh, NC 27601

Dated: March 30 2010



Joyce A. Howell

**BEFORE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
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RESPONDENT,

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**Docket No. RCRA-03-2010-0089**

**FINAL ORDER**

Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, the Greater Richmond Transit Company, have executed a document entitled Consent Agreement which I hereby ratify in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits* (Consolidated Rules of Practice), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

NOW, THEREFORE, PURSUANT TO the Consolidated Rules of Practice, and based on the representations in the Consent Agreement, having determined that the penalty agreed to in the Consent Agreement is based on a consideration of the factors set forth in Section 9006(c) and (e) of RCRA, 42 U.S.C. § 6991e(c) and (e), it is hereby ordered that Respondent

pay \$88,630 in accordance with the Consent Agreement and comply with the terms and conditions of this Consent Agreement.

The effective date of this Consent Agreement and Final Order is the date on which such Final Order is filed with the Regional Hearing Clerk.

3/30/10  
Date

  
Renée Sarajian  
Regional Judicial Officer