

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

In the Matter of:	:	
	:	
United States Department of the Army	:	U.S. EPA Docket No. RCRA-03-2022-0037
United States Army Corps of Engineers	:	
	:	Proceeding under Section 3008(a) and
	:	(g) of the Resource Conservation and
Respondent,	:	Recovery Act, as amended, 42 U.S.C.
	:	Section 6928(a) and (g)
Washington Aqueduct	:	
U.S. Army Corps of Engineers,	:	
Baltimore District	:	
5900 MacArthur Boulevard, N.W.	:	
Washington, D.C. 20016-2514,	:	
	:	
Facility.	:	

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Washington Aqueduct (“Respondent”) (collectively the “Parties”), pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as “RCRA”), 42 U.S.C. §§ 6928(a), and (g) 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. Section 3008(a)(1), 42 U.S.C. Section 6928(a)(1), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under RCRA Section 3008(a)(1), 42 U.S.C. Section 6928(a)(1), (or the “Act”) for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. Factual allegations or legal conclusions in this Consent Agreement are based on provisions of federally authorized District of Columbia Municipal Regulations (“DCMR”) requirements.
6. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated February 25, 2021, EPA notified the District of Columbia Department of Energy and the Environment (“DOEE”) of EPA’s intent to commence this administrative action against Respondent in response to the alleged violations of RCRA Subtitle C and the District of Columbia (“DC”) Hazardous Waste Regulations that are set forth herein.

GENERAL PROVISIONS

7. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
8. Except as provided in Paragraph 7, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
9. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
10. For purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing, the right to contest the allegations set forth in this Consent Agreement and Final Order and its right to appeal the accompanying Final Order. Respondent also expressly waives any right to confer with the administrator pursuant to RCRA Section 6001(b)(2), 42 U.S.C. § 6961(b)(2).
11. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
12. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

13. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
14. On March 25, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. §6926(b), and 40 C.F.R. Part 271, Subpart A, EPA granted the District of Columbia 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 provisions of the District of Columbia's revised authorized hazardous waste management program, through the 1985 final authorization, became requirements of RCRA Subtitle C, enforceable by EPA pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g). The provisions of the District of Columbia's authorized program were published in the District of Columbia Register on September 28, 1984, and were set forth at Chapter 20 of the District of Columbia Municipal Regulations ("DCMR"), Section 4000 et seq. These hazardous waste management regulations incorporated by reference the provisions of 40 C.F.R. Parts 260-265 (July 1, 1982 ed.) and 40 C.F.R. Parts 270 (July 1, 1983 ed.) with certain amendments thereto set forth in 20 DCMR Section 4001. At the time of the 1985 final authorization the District of Columbia was not granted authorization to administer its authorized program in lieu of certain provisions of Hazardous and Solid Waste Amendments ("HSWA") enacted on November 8, 1984 (Pub. L. No. 98-616), which amended Subtitle C of RCRA. These provisions remained exclusively enforceable by EPA in the District of Columbia pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
15. On November 9, 2001, EPA granted the District of Columbia authorization to administer its revised hazardous waste management program ("DC Hazardous Waste Regulations"), effective November 9, 2001 (66 Fed. Reg. 46961). The revised program was published in the District of Columbia Register on January 5, 2001 and was set forth at 20 DCMR §§ 4000 et seq. EPA authorized a subsequent revision of the DC Hazardous Waste Regulations on August 20, 2018 (83 Fed. Reg. 42036). The provisions of the District of Columbia's 2004 authorized hazardous waste management regulations, as revised by the 2018 authorization, have become requirements of RCRA Subtitle C enforceable by EPA pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g). The DC Hazardous Waste Regulations includes authority to implement some, but not all, HSWA provisions. To the extent that the District of Columbia's revised program does not include such HSWA authorities, EPA has exclusive authority to enforce such provisions.

16. When EPA last authorized the DC Hazardous Waste Regulations on August 20, 2018, EPA approved the District of Columbia's incorporation by reference of the then current federal regulations which were in effect as of July 1, 2004. As a result, 40 C.F.R. § 262.34 (2004) is the currently enforceable version of that RCRA regulation in the District of Columbia. On November 28, 2016, EPA re-codified the generator permit exemption, effective on May 30, 2017. The federal requirements previously found in 40 C.F.R. § 262.34 are now re-codified at 40 C.F.R. §§ 262.15 – 262.17. The Code of Federal Regulation citations used herein when referring to the federal regulations incorporated by reference into the DC Hazardous Waste Regulations are to the 2004 Federal regulations in effect at the time the DC Hazardous Waste Regulations were authorized.
17. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes EPA to initiate an enforcement action whenever it is determined that a person is in violation of any requirement of RCRA Subtitle C, EPA's regulations thereunder, or any regulation of a state hazardous waste program which has been authorized by EPA. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment if a civil penalty against any person who violates any requirement of Subtitle C of RCRA.
18. This Consent Agreement and the accompanying Final Order address alleged violations by Respondent of Subtitle C of RCRA, 42 U.S.C. §§ 6921–6939g, and certain provisions of the DC Hazardous Waste Regulations, set forth at 20 DCMR §§ 4000 et seq. at its facility.
19. Respondent's facility, known as the Washington Aqueduct, is located at 5900 MacArthur Boulevard, N.W. Washington, D.C. 20016-2514, ("Facility") and is further described below.
20. Respondent is and was at the time of the violations alleged herein, the owner and operator of the Washington Aqueduct, and doing business in the District of Columbia.
21. Respondent is, and at the time of the violations alleged herein, was a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 20 DCMR § 4260.1, which incorporates by reference 40 C.F.R. § 260.10.
22. Respondent is, and at the time of the violations alleged herein has been, the "owner" and "operator" of a "facility," described in Paragraph 24, below, as the terms "facility," "owner" and "operator" are defined in 20 DCMR § 4260.1, which incorporates by reference 40 C.F.R. § 260.10.
23. The Facility referred to in Paragraph 19, above, including all of its associated equipment and structures, produces drinking water for over one million people living and working in the District of Columbia and portions of Northern Virginia.

24. Respondent is assigned EPA RCRA ID No. DC1960000908.
25. Respondent is and, at all times relevant to this Consent Agreement and Final Order has been, a “generator” of, and has engaged in the “storage” in “containers” at the Facility of material as described below that are “solid wastes” and “hazardous wastes” as those terms are defined by 20 DCMR § 4260.1, which incorporates by reference 40 C.F.R. § 260.10.
26. Respondent generates waste Phosphoric Acid solution at the Facility, which is a hazardous waste (EPA Hazardous Waste Nos. P041) within the meaning of 20 DCMR § 4261.1, which incorporates by reference 40 C.F.R. Part 261, because it is a listed toxic hazardous waste.
27. Respondent generates waste Fluorosilicic Acid at the Facility, which is a hazardous waste (EPA Hazardous Waste Nos. P048) within the meaning of 20 DCMR § 4261.1, which incorporates by reference 40 C.F.R. Part 261, because it is a listed toxic hazardous waste.
28. Respondent generates waste Aluminum Chloride Hydroxide Sulfate, waste Algacides and Bactericides, and waste Sodium Hydroxide at the Facility which are hazardous wastes (EPA Hazardous Waste No. D002), within the meaning of 20 DCMR § 4261.1, which incorporates by reference 40 C.F.R. Part 261, because they exhibit the characteristic of corrosivity.
29. Respondent generates waste lead paint blast grit at the Facility which is a toxic hazardous waste (EPA Hazardous Waste No. D008) within the meaning of 20 DCMR § 4261.1, which incorporates by reference 40 C.F.R. § 261.21, because it exhibits the characteristic of toxicity.

Count I
Failure to File Biennial Report

30. The allegations in each of the preceding paragraphs of this Consent Agreement and Final Order are incorporated by reference as though fully set forth herein.
31. 20 DCMR § 4262.1 incorporates by reference 40 C.F.R. § 262.41 which requires, in pertinent part, that a generator who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must prepare and submit a single copy of a Biennial Report to the Director of the District of Columbia Department of Health by March 1 of each even numbered year.
32. Pursuant to 20 DCMR § 4261.7(a) none of a conditionally exempt small generator’s hazardous waste is exempt from the notification requirements of Section 3010 of RCRA, 42 U.S.C. § 6930. Under the DCMR, episodic months in which a generator exceeds the

1,000 kg threshold are sufficient to place the generator in large quantity generator status for that month.

33. Respondent offered for transport hazardous waste to off-site treatment, storage or disposal facilities within the United States in June, August, and October 2018 and in January, April, August, and December 2019.
34. Respondent did not file a Biennial Report to the Director of the District of Columbia Department of Health by March 1 of 2020 as required by 20 DCMR § 4262.1 incorporates by reference 40 C.F.R. § 262.41.
35. In failing to comply with 20 DCMR § 4262.1 incorporates by reference 40 C.F.R. § 262.41, Respondent is subject to the assessment of penalties under Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count II

Operating a Treatment, Storage, and Disposal Facility without a Permit or Interim Status

36. The allegations in each of the preceding paragraphs of this Consent Agreement and Final Order are incorporated by reference as though fully set forth herein.
37. 20 DCMR § 4270.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), provide, in pertinent part, that a person may not own or operate a facility for the treatment, storage or disposal of hazardous waste unless such person has first obtained a permit for such facility or has qualified for interim status for the facility.
38. 20 DCMR § 4262.1 which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i), and, by further reference the containment management requirements of 40 C.F.R. § 265.174, provides that a generator may accumulate hazardous waste in containers for 90 days or less without a permit provided that such person, at least weekly, inspect areas where containers are stored. The generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.
39. 20 DCMR § 4262.1 which incorporates by reference 40 C.F.R. § 262.34(a)(4) and, by further reference, the personnel training requirements of 40 C.F.R. § 265.16(c), provides that a generator may accumulate hazardous waste in containers for 90 days or less without a permit provided that such person provides employees responsible for managing hazardous waste with an annual review of the initial hazardous waste management training required in 40 C.F.R. § 265.16(a).

40. In a December 3, 2020 response to an EPA Information Request, Respondent supplied documents and information which indicated Respondent failed to conduct weekly inspections of its hazardous waste accumulation areas as required by 20 DCMR § 4262.1 which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i), and, by further reference the containment management requirements of 40 C.F.R. § 265.174 thirty times in 2018 and 52 times in 2019.
41. In a December 3, 2020 response to an EPA Information Request, Respondent supplied information which indicated Respondent did not provide RCRA refresher training as required by 20 DCMR § 4262.1, which incorporates by reference 40 C.F.R. § 262.34(a)(4) and, by further reference, the personnel training requirements of 40 C.F.R. § 265.16(c).
42. For the reasons and during the times set forth above at the Facility, Respondent failed to comply with the conditions for the temporary storage (*i.e.*, 90 days or less) of hazardous waste by a generator that are required pursuant to 20 DCMR § 4262.1 which incorporates by reference 40 C.F.R. § 262.34(a) with exceptions not relevant herein and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such section.
43. Respondent's Facility is a hazardous waste treatment, storage, or disposal "facility" as that term is defined in 20 DCMR § 4260.1, which incorporates by reference 40 C.F.R. § 260.10 with respect to the storage of hazardous waste as described above.
44. Respondent does not have, and never had, a hazardous waste treatment or storage permit or interim status pursuant to 20 DCMR § 4270.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), for the treatment or storage of hazardous waste at the Facility.
45. Respondent was required by 20 DCMR § 4270.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), to obtain a permit for the hazardous waste storage activities described in this count and failed to obtain such permit.
46. Respondent violated 20 DCMR § 4270.1, 40 C.F.R. § 270.1(b) and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by operating a hazardous waste storage facility without a permit, interim status, or a valid exemption to the permit requirement.
47. In failing to comply with 20 DCMR § 4270.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), Respondent is subject to

the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count III

Failure to Inspect Weekly the Hazardous Waste Accumulation Area

48. The allegations in each of the preceding paragraphs of this Consent Agreement and Final Order are incorporated by reference as though fully set forth herein.
49. 20 DCMR § 4264.1 incorporates by reference 40 C.F.R. § 264.174, which requires that at least weekly, a generator of hazardous waste that stores hazardous waste at a facility must inspect areas where hazardous waste containers are stored. The facility must look for leaking containers and for deterioration of containers caused by corrosion or other factors.
50. In a response dated December 3, 2020 to an EPA Information Request, Respondent submitted to EPA its hazardous waste accumulation area (HWAA) storage log provided by Washington Aqueduct to EPA indicated no weekly inspections of the Facility HWAA were performed thirty (30) times in 2018 and fifty-two (52) times in 2019.
51. In failing to comply with 20 DCMR § 4264., which incorporates by reference 40 C.F.R. § 174, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count IV

Failure to Give Employees Annual RCRA Refresher Training

52. The allegations in each of the preceding paragraphs of this Consent Agreement and Final Order are incorporated by reference as though fully set forth herein.
53. 20 DCMR 4264.1, which incorporates by reference 40 C.F.R. § 264.16(c), requires that employees that manage hazardous waste must take part in an annual review of the initial training required in 40 C.F.R. § 264.16(a).
54. In a response dated December 3, 2020 to an EPA Information Request, Respondent stated it did not provide RCRA refresher training to employees responsible for managing hazardous waste.
55. In failing to comply with 20 DCMR § 4264.1, which incorporates by reference 40 C.F.R. § 264.16(c), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

CIVIL PENALTY

56. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of SIXTY THOUSAND ONE HUNDRED NINETY-ONE dollars (\$60,191.00), which Respondent shall be liable to pay in accordance with the terms set forth below. Respondent must pay the civil penalty no later than THIRTY (30) calendar days from the effective date of this Consent Agreement and Final Order.
57. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), including, the following the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October 1990 RCRA Civil Penalty Policy, as revised in June 2003 ("RCRA Penalty Policy"), which reflects the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6982(a)(3) and (g). the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
58. Respondent's Treasury Account Symbol is **096 X 6094 000**. Inquiries concerning this payment may be made to **Ms. Mekava Williams**, who may be contacted at Mekava.A.Williams@usace.army.mil or 202-770-8443.
59. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalty, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, **Docket No. RCRA-03-2022-0037**;
 - b. All checks shall be made payable to the "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
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
 - d. Payment may be made using the Intra Governmental Payment and Collection

application (IPAC), ALC 68-01-0727, and Treasury Symbol 681099. Please include the Docket Number of this action (Docket No. RCRA-03-2022-0037) in the description field of the IPAC.

- e. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- f. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously via email to:

Joyce Howell
Sr. Assistant Regional Counsel
U.S. EPA, Region III (3RC20)
Howell.joyce@epa.gov

and

Regional Hearing Clerk
U.S. EPA, Region III
R3_Hearing_Clerk@epa.gov

GENERAL SETTLEMENT CONDITIONS

- 61. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information, personally identifiable information, or information which may adversely affect national security.
- 62. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent's officers, directors and agents are aware that the submission of false or misleading information to

the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

63. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

64. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state, or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of RCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

65. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. 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. 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, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

ANTIDEFICIENCY ACT

66. Respondent shall seek all existing funds to meet the requirements of this Consent Agreement and Final Order. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligation to comply with RCRA, the applicable regulations thereunder, or with this Consent Agreement and Final Order. Nothing in this Consent Agreement and Final Order shall be interpreted to require obligation or payment of funds in violation of the Antideficiency Act, 31 U.S.C. § 1341.

EXECUTION /PARTIES BOUND

31. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and its successor agencies, departments, or instrumentalities. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

32. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

33. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: United States Department of the Army, United States Army Corps of Engineers

Date: 1/6/22

By: CHOW.RUDOLPH.SHO
W-CHUNG.1595304071
Digitally signed by
CHOW.RUDOLPH.SHO-
CHUNG.1595304071
Date: 2022.01.06 09:55:32 -05'00'
Mr. Rudolph Chow
General Manager, Washington Aqueduct

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: _____

By: _____

Karen Melvin
Director, Enforcement and Compliance
Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: _____

By: _____

Joyce A. Howell
Sr. Assistant Regional Counsel
U.S. EPA – Region III

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

In the Matter of:	:
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United States Department of the Army	:
United States Army Corps of Engineers	:
	: U.S. EPA Docket No. RCRA-03-2022-0037
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Respondent,	:
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Baltimore District	: Proceeding under Section 3008(a) and
5900 MacArthur Boulevard, N.W.	: (g) of the Resource Conservation and
Washington, D.C. 20016-2514,	: Recovery Act, as amended, 42 U.S.C.
	: Section 6928(a) and (g)
Facility	

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division , U.S. Environmental Protection Agency, Region III, and Respondent, United States Army 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 Sections 22.18(b)(2) and (3)). 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.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s October 1990 RCRA Civil Penalty Policy, as revised in June 2003 (“RCRA Penalty Policy”), which reflects the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6982(a)(3) and (g).

NOW, THEREFORE, PURSUANT TO Section 3008(a) and (g) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a) and (g) and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of SIXTY THOUSAND ONE HUNDRED NINETY-ONE dollars (\$60,191.00), in accordance with the payment provisions set forth in the Consent Agreement and

in 40 C.F.R. § 22.31(c) and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and the regulations promulgated thereunder.

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

Date

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III