

Effective May, 4, 1998, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the District of Columbia was granted final authorization to administer a state UST management program *in lieu* of the Federal UST management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m. The provisions of the District of Columbia UST management program, through this final authorization, are enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. The District of Columbia's authorized UST program regulations are set forth in the District of Columbia Municipal Regulations, Title 20, Chapters 55 *et. seq.*, and will be cited hereinafter as 20 DCMR §§ 5500 *et. seq.*

GENERAL PROVISIONS

1. For purposes of this proceeding only, Respondent admits to the jurisdictional allegations set forth in this CAFO.
2. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO, except as provided in Paragraph 1, above.
3. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the attached Final Order ("FO"), or the enforcement of the CAFO.
4. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in this CA and any right to appeal the accompanying FO.
5. Respondent consents to the issuance of this CAFO, and agree to comply with its terms and conditions.
6. Respondent shall bear its own costs and attorney's fees.
7. The person signing this CA on behalf of Respondent certifies to EPA by his/her signature herein that Respondent, as of the date of this CA, is in compliance with the provisions of RCRA, Subtitle I, 42 U.S.C. §§ 6991-6991m, and the District of Columbia's federally authorized underground storage tank program set forth at 20 DCMR §§ 5500 *et. seq.* at the Facility referenced herein.
8. The provisions of this CAFO shall be binding upon Respondent, its officers, directors, employees, successors and assigns.
9. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor does this CAFO constitute a waiver, suspension or modification of the requirements of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, or any regulations promulgated thereunder.

10. Complainant shall have the right to institute further actions to recover appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to EPA regarding matters at issue in this CAFO are false or, in any material respect, inaccurate. Respondent is aware that the submission of false or misleading information to the United States government may subject them to separate civil and/or criminal liability.
11. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.
12. EPA has given the District of Columbia prior notice of the issuance of this CAFO in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

FACTUAL ALLEGATIONS AND CONCLUSIONS OF LAW

13. The United States Environmental Protection Agency - Region III ("EPA" or the "Region") and EPA's Office of Administrative Law Judges have jurisdiction over this matter pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, 40 C.F.R. Part 280 and 40 C.F.R. § 22.1(a)(4) and .4(c).
14. At all times relevant to this CAFO, Respondent has been the "owner" and/or "operator", as these terms are defined in Section 9001(4) and (3) of RCRA, 42 U.S.C. § 6991(4) and (3), respectively, and 20 DCMR § 6899.1, of the "underground storage tank" ("UST") and "UST system" as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and 20 DCMR § 6899.1, located at 4 DC Village Lane, SW, Washington, DC (the "Facility").
15. On April 5, 2007, an EPA representative conducted a Compliance Evaluation Inspection ("CEI") of the Facility pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.
16. At the time of the April 5, 2007 CEI, and at all times relevant to the applicable violations alleged herein, one (1) UST, as described in the following subparagraph, was located at the Facility:
 - A. a four thousand (4,000) gallon double-walled-fiberglass-reinforced-plastic tank that was installed in or about 1994 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 20 DCMR § 6899.1 (hereinafter "UST No. 1").
17. At all times relevant to the applicable violations alleged herein, UST No. 1 has been a "petroleum UST system" and "new tank system", as these terms are defined in 20 DCMR § 6899.1.

18. UST No. 1 is and was, at all times relevant to the applicable violations alleged herein, used to store "regulated substance(s)" at the Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1, and was not "empty" as that term is defined at 20 DCMR § 6100.7.
19. Pursuant to RCRA Section 9005, 42 U.S.C. § 6991d, on June 5, 2007, EPA issued an Information Request to Respondent concerning its petroleum UST systems at the Facility.
20. On August 28, 2007, Respondent removed the UST system at the Facility.

COUNT I

(Failure to perform release detection on
UST No. 1)

21. The allegations of Paragraphs 1 through 20 of the CA are incorporated herein by reference.
22. 20 DCMR § 6000.1 provides that each owner and operator of a new or existing UST system shall provide a method, or combination of methods, of release detection that meets the requirements described therein.
23. Pursuant to 20 DCMR §§ 6003.1 through 6003.5, tanks which are part of a petroleum UST system must be monitored at least every 30 days for releases using one of the methods listed in 20 DCMR §§ 6008 through 6012, except that: (1) prior to December 22, 1995, UST systems could have been monitored using a combination of inventory control and tank tightness testing in compliance with the requirements of 20 DCMR §§ 6005 through 6007; and (2) tanks with a capacity of 550 gallons or less may use weekly tank gauging conducted in accordance with 20 DCMR § 6006.
24. From January 1, 2004 until August 28, 2007, the method of release detection selected by Respondent for the UST No. 1 had been interstitial monitoring in accordance with 20 DCMR § 6011.
25. From January 1, 2004 until April 5, 2007, Respondent failed to perform interstitial monitoring for UST No. 1 in accordance with 20 DCMR §§ 6011.
26. During the periods of time indicated in Paragraph 25, above, Respondent did not use any of the other release detection methods specified in 20 DCMR §§ 6003.2 through 6003.5 and/or 20 DCMR §§ 6005 through 6012 on UST No. 1 located at the Facility.
27. Respondent's acts and/or omissions as alleged in Paragraphs 25 and 26, above, constitute violations by Respondent of 20 DCMR §§ 6000.1 and 6003.

COUNT II

(Failure to perform automatic line leak detector testing annually on
UST No. 1)

28. The allegations of Paragraphs 1 through 27 of the CA are incorporated herein by reference.
29. 20 DCMR § 6000.1 provides that each owner and operator of a new or existing UST system shall provide a method, or combination of methods, of release detection that meets the requirements described therein.
30. 20 DCMR § 6000.2 provides that the owner and operator of each UST system, regardless of the date of installation, shall immediately comply with the release detection requirements for all pressurized piping as set forth in 20 DCMR §§ 6004.2 and 6004.3.
31. 20 DCMR § 6004.1 provides that the owner and operator of a petroleum UST system shall regularly monitor all underground piping that contains or conveys regulated substances for releases in accordance with 20 DCMR § 6004.
32. 20 DCMR § 6004.2 provides that underground piping that conveys regulated substances under pressure shall be equipped with an automatic line leak detector, in accordance with § 6013.2 of this chapter.
33. 20 DCMR § 6013.2 provides, in pertinent part, that the owner or operator shall conduct an annual test of the operation of the leak detector, in accordance with the manufacturer's requirements.
34. From April 5, 2006 and until April 5, 2007, the underground piping for the UST No. 1 conveyed regulated substances under pressure.
35. Respondent failed to perform an annual test of the automatic line leak detector for the underground piping associated with UST No. 1 from April 5, 2006 until April 5, 2007 for UST No. 1.
36. Respondent's acts and/or omissions as alleged in Paragraph 35, above, constitute a violation by Respondent of 20 DCMR § 6004.2 and 20 DCMR § 6013.2.

COUNT III

(Failure to provide cathodic protection on UST No. 1)

37. Paragraphs 1 through 36 of this CAFO are incorporated by reference as if fully set forth herein.

38. 20 DCMR § 5704.1 provides, *inter alia*, that piping for new UST system that routinely contains regulated substance and is in contact with earthen materials must be properly designed, constructed and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, as specified by the Director of the Department of Consumer and Regulatory Affairs and in accordance with the BOCA Fire Prevention Code.
39. 20 DCMR § 5704.2 provides, in pertinent part, that underground storage system piping shall be construed of (a) fiberglass-reinforced plastic, or (b) steel that is cathodically protected in accordance with the requirements of 20 DCMR § 5701.3.
40. 20 DCMR § 5704.3 provides that steel UST piping shall be cathodically protected by being coated with a suitable dielectric materials, and in addition: (a) field-installed cathodic protection systems shall be designed by a corrosion expert; and (b) impressed current cathodic protection systems shall be designed to allow determination of current operating status as required by 20 DCMR § 5901.6.
41. 20 DCMR § 5901.6 provides that each UST system with an impressed current cathodic protection system shall also be inspected every sixty (60) days to ensure the equipment is running properly.
42. From April 1, 2003 until August 28, 2007, the underground piping for UST No. 1 was made of steel, routinely contained regulated substances, and was in contact with earthen materials.
43. From April 1, 2003 until August 28, 2007, the metal piping for UST No. 1 was not properly designed, constructed, and/or protected from corrosion in accordance with 20 DCMR § 5704.1 and .3.
44. Respondent's act and/or omission as alleged in Paragraph 43, above, constitutes a violation by Respondent of 20 DCMR § 5704.1 and .3.

CIVIL PENALTY

45. In settlement of Complainant's claims for civil penalties for the violations alleged in this CA, Respondents agree to pay a civil penalty in the amount of Seventeen Thousand Eight Hundred Fifteen (\$17,815.00) Dollars. The civil penalty amount is due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO.
46. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors of the seriousness of Respondent's violations and any good faith efforts by Respondent to comply with all applicable requirements as provided in RCRA Section 9006(c), 42 U.S.C. § 6991e(c), and

with EPA's Penalty Guidance for Violations of UST Regulations ("UST Guidance") dated November 4, 1990.

47. Respondent shall pay the amount described in Paragraph 45, above, by sending a certified or cashier's check payable to the "United States Treasury," as follows:

By Regular US Postal Service Mail:

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

By Private Commercial Overnight Delivery:

U.S. EPA, Fines and Penalties
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
(314) 418-4087

Payment of the penalty as required by this CAFO may also be made by electronic transfer to:

Wire Transfers

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT Address = FRNYUS33
33 Liberty Street
New York, NY 10045

(Field Tag 4200 of the wire transfer message should read:
"D 68010727 Environmental Protection Agency")

Automated Clearing House (ACH) Transfers

PNC Bank
ABA = 051036706
Environmental Protection Agency
Account 310006

CTX Format
Transaction Code 22 - checking
808 17th Street, NW
Washington, DC 20074

Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO. A copy of Respondent's check or a copy of Respondent's electronic transfer shall be sent simultaneously to:

Regional Hearing Clerk (3RC00)
EPA Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103 - 2029, and

Louis F. Ramalho
Sr. Assistant Regional Counsel
U.S. Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

FULL AND FINAL SATISFACTION

48. This CAFO constitutes a settlement by EPA of its claims for civil penalties pursuant to 9006(a) of RCRA, 42 U.S.C. § 6991e(a), for the violations alleged in this Consent Agreement.

RESERVATION OF RIGHTS

49. EPA reserves the right to commence action against any person, including Respondent in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

OTHER APPLICABLE LAWS

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

AUTHORITY TO BIND

51. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and bind Respondent hereto.

ENTIRE AGREEMENT

52. This Consent Agreement and the attached Final Order constitute the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Agreement and the attached Final Order.

EFFECTIVE DATE

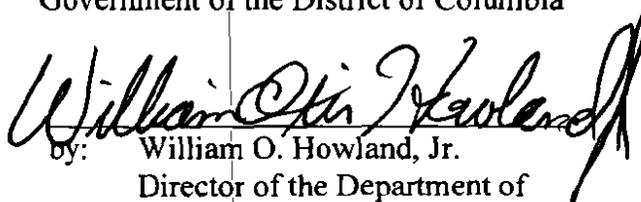
53. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

For Respondent:

Department of Public Works of the
Government of the District of Columbia

2-21-2008

Date

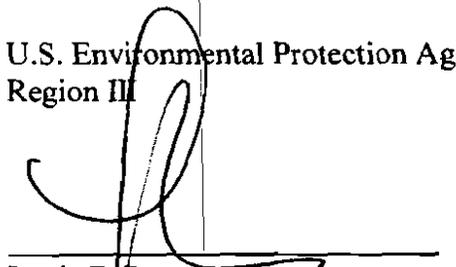

by: William O. Howland, Jr.
Director of the Department of
Public Works

For Complainant:

U.S. Environmental Protection Agency,
Region III

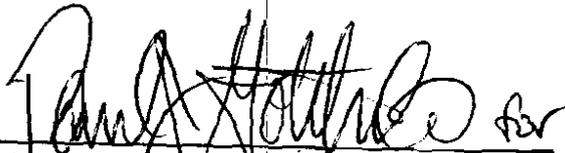
2-26-08

Date


Louis F. Ramalho
Senior Assistant Regional Counsel

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

2/29/08
Date

By:  for
Abraham Ferdas, Director
Waste and Chemicals Management
Division, EPA Region III

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

In the Matter of:)	
)	
Fleet Management Administration)	
Department of Public Works)	U.S. EPA Docket Number
Government of the District of Columbia)	Docket No. RCRA-03-2008-0114
1725 15 th Street, NE)	
Washington, DC 20002)	Proceeding Under Section 9006(a) of the
)	Resource Conservation and Recovery
RESPONDENT,)	Act, as amended, 42 U.S.C. § 6991e(a).
)	
DC Department of Human Services)	
4 DC Village Lane, SW)	FINAL ORDER
Washington, DC 20032)	
)	
FACILITY.)	
)	
)	
)	

RECEIVED
 REGION III
 PHILADELPHIA
 MAR 11 2008

FINAL ORDER

Complainant, the Associate Director for Enforcement, Waste and Chemicals Management Division, U.S. Environmental Protection Agency - Region III, and Respondent, Department of Public Works of the Government of the District of Columbia has 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. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the *Consolidated Rules of Practice* and Section 9006(c) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6991e(c) (“RCRA”), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section 9006(c) and (d) of RCRA, 42 U.S.C. § 6991e(c) and (d), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of Seventeen Thousand Eight Hundred Fifteen (\$17,815.00) Dollars in accordance with the payment provisions set forth in the attached Consent Agreement, and comply with each of the additional terms and conditions as specified in the attached Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date: 3/4/08


Renée Sarajian
Regional Judicial Officer
U.S. EPA, Region III

CERTIFICATE OF SERVICE

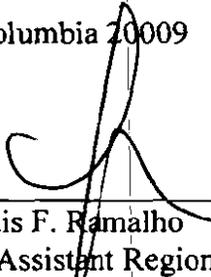
I, the undersigned, hereby certify that on the date listed below, the original of the foregoing Consent Agreement and Final Order, Docket No. RCRA-03-2008-0114, was filed with the Regional Hearing Clerk, U.S. EPA - Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and that a true and correct copy was sent to the following parties:

Overnight mail:

Christine Davis
General Counsel
Office of the General Counsel
Department of Public Works
2000 14th Street N.W.
Washington, District of Columbia 20009

RCRA-03-2008-0114
EPA-03-06

03/04/08
Date



Louis F. Ramalho
Sr. Assistant Regional Counsel
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029