

HEARINGS CLERK
EPA -- REGION 10

U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900, ORC-113
Seattle, Washington 98101
(206) 553-1037

program in the State of Alaska.

1.4. Pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and the United States Army (“Army” or “Respondent”) agrees to issuance of the Final Order attached to this Consent Agreement (“Final Order”).

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of RCRA is proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of RCRA together with the specific provisions of RCRA and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

3.1. At all times relevant to the allegations set forth herein, Respondent is and has been the “owner” and “operator” of the U.S. Army Fort Wainwright Garrison Facility, located in the State of Alaska at Fairbanks North Star Borough (“Fort Wainwright” or “Facility”), as those terms are defined at 40 C.F.R. § 260.10.

3.2. Respondent is a department, agency, and/or other instrumentality of the United States.

3.3. Respondent is a "person" as that term is defined by Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

3.4. 40 C.F.R. § 261.2(a)(1) defines "solid waste" as any discarded material that is not excluded under 40 C.F.R. § 261.4(a) or that is not excluded by a variance granted under 40 C.F.R. §§ 260.30 and 260.31 or that is not excluded by a non-waste determination under 40 C.F.R. §§ 260.30 and 260.34.

3.5. 40 C.F.R. § 261.3 defines "hazardous waste" as a "solid waste" (as defined in 40 C.F.R. § 261.2) that has not been excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b) and which meets any of the criteria identified in 40 C.F.R. § 261.3(a)(2).

3.6. 40 C.F.R. § 260.10 defines a "generator" as any person, by site, whose act or process produces hazardous waste identified or listed in 40 C.F.R. Part 261 or whose act first causes a hazardous waste to become subject to regulation.

3.7. 40 C.F.R. § 260.10 defines "facility" as all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.

3.8. The Facility is a "facility" as that term is defined in 40 C.F.R. § 260.10.

3.9. In the National Biennial RCRA Hazardous Waste Report for 2015, the Facility reported as a Large-Quantity Generator ("LQG"), meaning that it generated in any single month more than 1,000 kg (2,200 pounds or 1.1 tons) of hazardous waste, and is assigned RCRA Identification Number AK6210022426.

3.10. On June 8-11, 2015, two authorized representatives of EPA ("EPA Inspectors") conducted an inspection of the Facility to determine compliance with RCRA ("EPA Inspection").

3.11. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$37,500 per day of noncompliance for each violation of a requirement of Subtitle C of RCRA, issue an order requiring compliance, or both.

Count 1: Failure to Make a Hazardous Waste Determination

3.12. The allegations in each of the preceding paragraphs of this Consent Agreement are incorporated by reference herein as though fully set forth herein.

3.13. Pursuant to 40 C.F.R. § 262.11, a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste using the method provided in 40 C.F.R. § 262.11(a)-(d).

3.14. During the EPA Inspection, the EPA Inspectors observed numerous discarded waste aerosol cans for which Respondent failed to make a hazardous waste determination in accordance with the provisions of 40 C.F.R. § 262.11, including the following:

- a. Eight aerosol cans of Homax Pro Grade Wall Texture discarded inside a large roll-off trash dumpster at the Phase 3&4 Northern Lights Housing project. The eight waste aerosol cans contained fluid and were exposed to direct sunlight. According to the MSDS for the Homax Pro Grade Wall Texture, the contents should be kept away from heat and direct sunlight. The Material Safety Data Sheet (MSDS) indicates that the contents of the Homax Pro Grade Wall Texture waste aerosol cans would be a D001 ignitable hazardous waste.

- b. One aerosol can of KRYLON ColorMaster White Semi-gloss paint and primer discarded inside the large roll-off trash dumpster at the Phase 3&4 Northern Lights Housing project. The waste aerosol can contained fluid. The MSDS indicates that the contents of the KRYLON ColorMaster White Semi-gloss paint and primer waste aerosol can would be a D001 ignitable hazardous waste.
- c. Approximately 100 aerosol cans discarded in a trash can without the lid on at the Bldg. FTW374A (Battalion Headquarters). According to personnel at the Facility, the waste aerosol cans were generated starting on July 7, 2014. Several of the aerosol cans contained liquid moving around inside the cans. The MSDS indicates that the contents of the waste aerosol cans identified at the FTW374A (Battalion Headquarters) construction project would be D001 ignitable hazardous waste.
- d. A waste aerosol can of PWC 280 Green polyurethane discarded in the trash at the Bldg. 3007 (1/52 Delta Company Hangar #4). The MSDS indicates that the contents of the waste aerosol can would be a D001 ignitable hazardous waste.
- e. A yellow bucket that contained an unknown discarded liquid at Bldg. 3485 (5/1 Cavalry Motor pool). The bucket was not labeled. The EPA Inspector was told that it might be "Simple Green," but no hazardous waste determination was made on the contents of the yellow bucket.

3.15. Respondent's failure to determine if solid waste generated at the Facility is a hazardous waste is a violation of 40 C.F.R. § 262.11.

Count 2: Failure to Comply with the Conditions to Operate Without a Permit or Interim Status

3.16. The allegations in each of the preceding paragraphs of this Consent Agreement are incorporated by reference herein as though fully set forth herein.

3.17. Section 3005 of RCRA, 42 U.S.C. § 6925, requires that anyone who treats, stores or disposes of hazardous waste must have a permit or interim status. However, under 40 C.F.R. § 262.34(a), a large quantity generator may accumulate hazardous waste on-site for 90 days without a permit or interim status provided that, among other things, the generator complies with the requirements of Subpart I of 40 C.F.R. Part 265.

Failure to Comply with Hazardous Waste Initial Training Requirements

3.18. 40 C.F.R. § 265.16(a) provides that facility personnel involved with hazardous waste management must complete a program of classroom instruction or on-the-job training that meets the requirements of 40 C.F.R. § 265.16.

3.19. Pursuant to 40 C.F.R. § 265.16(b), facility personnel involved with hazardous waste management must complete the program required in 40 C.F.R. § 265.16(a) within six months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later.

3.20. Pursuant to 40 C.F.R. § 265.16(e), training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility.

3.21. At the time of the EPA Inspection, there were at least 10 personnel at the Facility involved in hazardous waste management in at least one of the following locations who failed to complete initial hazardous waste management training and/or for whom there was no

documentation of such training: Bldg. 3494N (70th BEB Motor pool), Bldg. 3498X (General Dynamics Motor pool), Bldg. 3007 (1/52 Delta Company Hangar #4), Bldg. 2077W (1/52 Delta Company Hangar #7), Bldg. 2132 (3/159 Attack Recon Battalion Hangar #5), and/or Bldg. 3485 (5/1 Cavalry Motor pool).

3.22. Because Respondent failed to comply with the conditions for accumulation of hazardous waste without a permit or interim status at 40 C.F.R. § 262.34(a), Respondent was operating a treatment, storage, or disposal facility without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

Failure to Comply with Hazardous Waste Annual Training Requirements

3.23. 40 C.F.R. § 265.16(c) provides that facility personnel involved with hazardous waste management must take part in an annual review of the initial hazardous waste training, as required at 40 C.F.R. § 265.16(a).

3.24. At the time of the EPA Inspection, there were at least 6 personnel at the Facility involved in hazardous waste management in at least one of the following locations whose annual hazardous waste training had expired and/or for whom there was no documentation of such training: Bldg. 3493S (1/24 Infantry Motor pool), Bldg. 3498 (25th BSB Motor pool), Bldg. 2132 (initially, the 6/17th Cavalry Motor Pool and subsequently, the 3/159 Attack Recon Battalion Hangar #5), Bldg. 3492N (1/5 Infantry Motor pool), and Bldg. 2297 (1/52 E Company Aviation Motor pool).

3.25. Because Respondent failed to comply with the conditions for accumulation of hazardous waste without a permit or interim status at 40 C.F.R. § 262.34(a), Respondent was

operating a treatment, storage, or disposal facility without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

Failure to Conduct Weekly Inspections

3.26. 40 C.F.R. § 265.174 requires that the owner or operator of a facility that stores hazardous waste must inspect at least weekly the areas where containers of hazardous waste are stored to look for signs of leakage and/or deterioration caused by corrosion or other factors.

3.27. At the time of the EPA Inspection, Respondent had failed to conduct a weekly inspection of the following areas where containers of hazardous waste are stored: Bldg. 3494S (1/24 Infantry Motor pool), Bldg. 3007 (1/52 Delta Company Hangar #4), Bldg. 2077W (1/52 Delta Company Hangar #7), Bldg. 2132 (initially, the 6/17th Cavalry Motor Pool and subsequently, the 3/159 Attack Recon Battalion Hangar #5), Bldg. 3492N (1/5 Infantry Motor pool), Bldg. 3492S (3/21 Infantry Motor pool), and Bldg. 3485 (5/1 Cavalry Motor pool).

3.28. Because Respondent failed to comply with the conditions for accumulation of hazardous waste without a permit or interim status at 40 C.F.R. § 262.34(a), Respondent was operating a treatment, storage, or disposal facility without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

Storage of Incompatible Wastes Adjacent to Each Other

3.29. 40 C.F.R. § 265.177(c) provides that a storage container holding a hazardous waste that is incompatible with any waste or other materials stored nearby in other containers or piles must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

3.30. At the time of the EPA Inspection, a red storage locker in Bldg. 2077W had labeling that indicated it held corrosive and Class 9 N.O.S. type materials. Approximately fifty lithium sulfur dioxide batteries were on the top shelf of the red storage locker. Two of the lithium sulfur dioxide battery cases were cracked. According to the MSDS for lithium sulfur dioxide batteries, batteries may explode, ignite or vent electrolyte if, among other things, they are crushed, opened, or punctured. Containers of Hysol EA 960F Part B were on the bottom shelf of the red storage locker below the lithium sulfur dioxide batteries.

3.31. A solid waste that exhibits the characteristic of reactivity has the EPA Hazardous Waste Number of D003 waste. A solid waste exhibits the characteristics of reactivity if it, among other properties, is a cyanide or sulfide bearing waste which, when exposed to pH conditions between 2 and 12.5, can generate toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment. The cracked lithium sulfur dioxide batteries in the red storage locker are D003 hazardous wastes.

3.32. The MSDS for the Hysol EA 960F Part B indicates that it is incompatible with strong oxidants, strong acids and strong bases, and that it should be stored in a cool well-ventilated place away from incompatible materials. The silicon dioxide in the lithium sulfur dioxide battery is acidic and a strong oxidizing agent.

3.33. Because Respondent failed to comply with the conditions for accumulation of hazardous waste without a permit or interim status at 40 C.F.R. § 262.34(a), by storing incompatible wastes and/or materials in a storage locker together without being separated by means of a dike, berm, wall or other device, Respondent was operating a treatment, storage, or

disposal facility without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

Count 3: Storage of Hazardous Waste for Over 90 Days Without a Permit or Interim Status

3.34. The allegations in each of the preceding paragraphs of this Consent Agreement are incorporated by reference herein as though fully set forth herein.

3.35. 40 C.F.R. § 262.34(b) provides that a generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 C.F.R. parts 264 and 265 and the permit requirements of 40 C.F.R. part 270 unless the generator has been granted an extension to the 90-day period.

3.36. At the time of the EPA Inspection, an EPA Inspector observed a 55-gallon container that was labeled "Tetrachloroethylene" at Bldg. 3485. Army personnel told the EPA Inspectors that the container labeled "Tetrachloroethylene" was found on February 14, 2015.

3.37. The container was dented on the top and the bottom and had a sticker that was marked "DISP EXP 31 OCT 14." The container also had a shipping label attached to it that identified the shipping date to the Facility as November 30, 2012.

3.38. The 55-gallon container that was labeled "Tetrachloroethylene" was stored for more than 90 days (and no extension was granted), was not clearly marked with the words "Hazardous Waste," and was not clearly labeled with the date upon which waste accumulation began.

3.39. Because Respondent failed to comply with the conditions for accumulation of hazardous waste without a permit or interim status at 40 C.F.R. § 262.34(a), and stored hazardous waste for more than 90 days without a permit or interim status at the Facility,

Respondent was operating a treatment, storage, or disposal facility without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

Count 4: Failure to Comply with Used Oil Requirements

3.40. The allegations in each of the preceding paragraphs of this Consent Agreement are incorporated by reference herein as though fully set forth herein.

3.41. 40 C.F.R. § 279.22(c)(1) requires that containers used to store used oil must be labeled or marked clearly with the words "Used Oil."

3.42. At the time of the EPA Inspection, the EPA Inspector observed at the 90-day accumulation area at Bldg. 3492S (3/21 Infantry Motor Pool), an oil pan that contained used oil. The oil pan was not marked with the words "Used Oil."

3.43. During the EPA Inspection, Respondent labeled the container with the words "Used Oil."

3.44. Respondent violated 40 C.F.R. § 279.22(c)(1) by failing to label a container used to store used oil with the words "Used Oil."

IV. TERMS OF SETTLEMENT

4.1. For purposes of this proceeding, Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. For purposes of this proceeding, Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), EPA has taken into account the seriousness of the violations and any good faith efforts to comply with

applicable requirements. After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$32,000 (the "Assessed Penalty").

4.4. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.

4.5. Payments under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

Respondent must note on the check the title and docket number of this action. Respondent's Treasury Account Symbol is 021. Inquiries concerning this payment can be made to Tammy Dauma. Tammy Dauma can be contacted at 907-353-9177 or tammy.l.dauma.civ@mail.mil.

4.5.1 Payment by Respondent may also be made using the Intra Governmental Payment and Collection application (IPAC), using the Agency's Location Code (ALC) 68-01-0727. Please include the Docket Number of this action (Docket No. RCRA 10-2018-0200) in the description field of the IPAC. The Customer Service contact is Molly Williams at 513-487-2076.

4.6. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.5, on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10,
1200 Sixth Avenue, Suite 900
Mail Stop ORC 113
Seattle, Washington 98101
Young.teresa@epa.gov

Cheryl Williams
U.S. Environmental Protection Agency
Region 10,
1200 Sixth Avenue, Suite 900
Mail Stop OCE 101
Seattle, Washington 98101
Williams.CherylB@epa.gov

4.7. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of the Assessed Penalty shall become immediately due and owing.

4.8. Respondent agrees to implement and operate the Supplemental Environmental Project (SEP), in accordance with all provisions described in this Consent Agreement, including Attachment A.

4.9. Respondent's deadline to perform the SEP shall be excused or extended only if such performance is prevented or delayed by events which constitute a *Force Majeure* event. A *Force Majeure* event is defined as any event arising from causes beyond the reasonable control of Respondent including its employees, agents, consultants, and contractors which could not be overcome by due diligence and which delays or prevents performance of a SEP within the specified time period. A Force Majeure event does not include, *inter alia*, increased costs of performance, changed economic circumstances, changed labor conditions, normal precipitation or climate events, changed circumstances arising out of the sale, lease, or other transfer or

conveyance of title or ownership or possession of a site, or failure to obtain federal, state or local permits.

4.10. Respondent certifies to the truth, accuracy, and completeness of all cost information provided to EPA in connection with EPA's approval of the SEP, and that Respondent, in good faith, estimates that the cost to implement the SEP, exclusive of internal labor costs, is \$273,000.

4.11. Respondent also certifies that, as of the date of this Consent Agreement, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation, nor is Respondent required to perform or develop the SEP by another agreement, under a grant, or as injunctive relief in any other case. Respondent further certifies: that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP; that the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Consent Agreement; and that Respondent will not receive any reimbursement for any portion of the SEP from any other person or entity.

4.12. Respondent hereby certifies that (1) it is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in paragraph 4.8 and (2) it has inquired of any third party SEP implementer whether it is a party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP and has been informed by the SEP implementer that neither is a party to such a transaction.

4.13. Respondent shall install, train employees and begin operation of at least 16 antifreeze recycling units at the Facility to recycle used antifreeze generated on site within 180 days of the effective date of the CAFO. All employees that operate the equipment during the project's implementation shall be trained.

4.14. Respondent shall install at least 80 aerosol can depressurizing devices suitable for the capture of contained materials to facilitate the recycling of the empty aerosol cans within 180 days of the effective date of the CAFO. Respondent shall train all employees who operate the equipment and begin operation of the aerosol can depressurizing equipment within 180 days of the effective date of the CAFO.

4.15. Respondent shall submit a SEP Interim Report (Interim Report), as described in Attachment A, to EPA within 210 days of the effective date of this Consent Agreement.

4.16. Respondent shall submit a SEP Completion Report (Report), as described in Attachment A, to EPA within 30 months of the effective date of this Consent Agreement, but no earlier than 24 months after the start of the operation of the antifreeze recycling units and aerosol can depressurizing equipment.

4.17. Unless otherwise instructed in writing by EPA, Respondent shall submit all notices and reports required by this Consent Agreement by first class mail, overnight mail, or hand delivery, with a copy by electronic mail, to:

Cheryl Williams
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-101
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
Williams.CherylB@epa.gov

4.18. Respondent agrees that EPA may inspect Respondent's Facility and records related to the SEP at any reasonable time in order to confirm that the SEP is being undertaken in conformity with the representations made herein.

4.19. Respondent shall maintain legible copies of documentation of the underlying data for documents or reports submitted to EPA pursuant to this Consent Agreement until the SEP Completion Report is accepted pursuant to Paragraph 4.20, and Respondent shall provide the documentation of any such underlying data to EPA within fifteen (15) days of receiving a written request for such information. In all documents or reports including, without limitation, the SEP Completion Report submitted to EPA pursuant to this Consent Agreement, Respondent shall, by a Commanding Officer, or his designee, sign and certify under penalty of law that the information contained in such a document or report is true, accurate, and not misleading by signing the following statement:

"I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

4.20. Following receipt of the SEP Completion Report described in Paragraph 4.16 and Attachment A, EPA will do one of the following: (i) accept the Report and notify Respondent in writing that the SEP has been satisfactorily completed; (ii) reject the Report, notify Respondent, in writing, of deficiencies in the Report, and provide Respondent an additional 30 days in which

to correct any deficiencies; or (iii) reject the Report and seek stipulated penalties in accordance with Paragraphs 4.21 and 4.22.

4.21. If Respondent fails to satisfactorily complete the SEP as contemplated by this Consent Agreement, then stipulated penalties shall be due and payable by Respondent to EPA upon demand in accordance with Paragraph 4.23. EPA may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this Consent Agreement. The determination of whether the SEP has been satisfactorily completed and whether Respondent has made a good faith, timely effort to implement the SEP is reserved to the sole discretion of EPA.

4.22. If Respondent fails to meet the requirements of Paragraphs 4.13-4.16, or fails to satisfactorily complete the SEP required by this Consent Agreement and Attachment A, Respondent shall pay stipulated penalties, upon written demand from EPA, in the amount of \$250 for each day after the respective due dates.

4.23. Respondent shall pay stipulated penalties within fifteen (15) days of receipt of a written demand by EPA for such penalties. Payment shall be submitted in accordance with the provisions of Paragraphs 4.5 and 4.6.

4.24. Any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the SEP from the date of the execution of this Consent Agreement shall include the following language:

“This project was undertaken in connection with the settlement of an administrative enforcement action taken by the U.S. Environmental Protection Agency under the Resource Conservation and Recovery Act.”

4.25. This Consent Agreement 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 shall it be construed to constitute EPA approval of the equipment or technology installed by Respondent in connection with the SEP undertaken pursuant to this Consent Agreement.

4.26. Based on the findings contained in this Consent Agreement, and pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is also ordered to certify within 30 days of the effective date of this Consent Agreement and Final Order: (1) that steps have been taken since the EPA Inspection to properly manage aerosol cans at the Facility, including ensuring that hazardous waste determinations are made, aerosol cans are properly disposed, and that Facility personnel (including contractors) are informed on the proper management of aerosol cans at the Facility; (2) that initial and annual refresher training for required personnel is up to date; (3) that weekly inspections are being performed and Respondent has documented what steps have been taken since the EPA Inspection to ensure weekly inspections are being performed; (4) that any storage container holding a hazardous waste that is incompatible with any waste or other materials stored nearby in other containers are separated from the other materials or protected from them by means of a dike, berm, wall, or other device; and (5) that all containers are properly labelled according to 40 C.F.R. § 279.22(c)(1).

4.27. Respondent shall provide certification documentation required under Paragraph 4.26, with a copy by electronic mail to:

Cheryl Williams
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-101
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
Williams.CherylB@epa.gov

4.28. Under Section 3008(c) of RCRA, 42 U.S.C. § 6928(c), failure to take actions within the time specified in this Consent Agreement may subject Respondent to additional civil penalties for each day of continued noncompliance.

4.29. The Assessed Penalty represents an administrative civil penalty assessed by EPA.

4.30. Respondent shall seek all existing funds to meet the requirements of this Consent Agreement. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligations to comply with RCRA, the applicable regulations thereunder, or this Consent Agreement.

4.31. Respondent shall seek existing funds to meet the requirements of this Consent Agreement. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligations to comply with RCRA, the applicable regulations thereunder, or this Consent Agreement, including Attachment A. Nothing in this Consent Agreement shall be interpreted to require obligations or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

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

4.33. The undersigned representative of the Respondent also certifies that, as of the date of Respondent's signature on this Consent Agreement, Respondent has corrected the violation(s) alleged in Part III.

4.34. Each party shall bear its own costs and attorneys' fees in bringing or defending this action.

4.35. Respondent expressly waives any right to contest the allegations contained in this Consent Agreement and to appeal the Final Order and/or to confer with the EPA Administrator under Section 6001(b)(2) of RCRA, 42 U.S.C. § 6961(b)(2), on any issue of law or fact set forth in this Consent Agreement and the Final Order.

4.36. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.


4.37. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.38. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

FOR RESPONDENT ARMY:

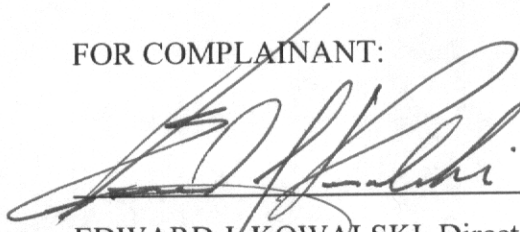
NOV 16 2017


SEAN N. FISHER
Colonel, U.S. Army
Commanding

DATED:

FOR COMPLAINANT:

11/29/2017


EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement
EPA Region 10

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this _____ day of _____, 2017.

M. SOCORRO RODRIGUEZ
Regional Judicial Officer
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

United States Army

Respondent

Fort Wainwright Army Garrison, Alaska

Facility.

DOCKET NO. RCRA-10-2018-0200

FINAL ORDER

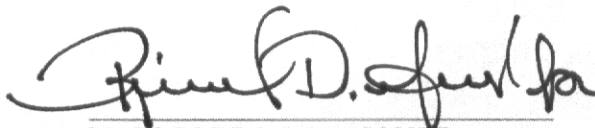
1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under RCRA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of RCRA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 1st day of December, 2017.

A handwritten signature in black ink, appearing to read "M. Socorro Rodriguez", is written over a horizontal line.

M. SOCORRO RODRIGUEZ
Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: United States Army, Docket No.: RCRA-10-2018-0200**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

Kathleen Doster
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101


Cheryl Williams
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-101
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Tracy R. Carter
Attorney-Advisor/Environmental Law
1060 Gaffney Road
Stop 5700
Ft. Wainwright, Alaska 99703

U.S. Army Garrison Fort Wainwright
Attn. Sean N. Fisher, COL, Commanding
1060 Gaffney Road
Fort Wainwright, AK 99703

DATED this 4 day of December, 2017.



TERESA YOUNG
Regional Hearing Clerk
EPA Region 10

ATTACHMENT A: SUPPLEMENTAL ENVIRONMENTAL PROJECT ("SEP")

IN THE MATTER OF: Fort Wainwright Army Garrison, Alaska
EPA DOCKET NO.: RCRA-10-2018-0200
Consent Agreement and Final Order

In accordance with the above captioned Consent Agreement and Final Order (CAFO) between the United States Department of the Army (Respondent) and the United States Environmental Protection Agency (EPA), Respondent shall implement a Supplemental Environmental Project (SEP) involving the recycling of antifreeze and aerosol can depressurizing operations at its facility located at Fort Wainwright Army Garrison, AK (Fort Wainwright or the Facility). The installation and operation of the antifreeze recycling equipment and aerosol can depressurizing equipment shall be referred to collectively as the "Project."

I. Installation, Training and Operation

Within 180 days of the effective date of the CAFO, the Respondent shall install, train employees and begin operation of the antifreeze recycling units. Within 180 days of the effective date of the CAFO, the Respondent shall also install, train employees and begin operation of the aerosol can depressurizing equipment.

Costs

Respondent estimates in good faith that the costs to complete the Project will be approximately \$273,000, as detailed in the charts below:

Materials for Antifreeze Management Program

Materials Description	Unit	Unit Price	Amount
CC2 Coolant Purification Systems	16	\$9,784	\$156,544
Additives, Filters, Resin and Ancillary Parts	16	\$3,200	\$ 51,200
TOTAL ESTIMATED PROJECT INVESTMENT			\$207,744

Materials for Aerosol Can Management Program

Materials Description	Unit	Average Unit Price	Amount
Aerovent Aerosol 1 or 3 Can Disposal Systems	80	\$812	\$65,000
TOTAL ESTIMATED PROJECT INVESTMENT			\$65,000

II. Expected Duration of SEP

The Respondent shall operate the antifreeze recycling equipment for a minimum of two years after the initial installation and start of operation of the antifreeze recycling equipment. The Respondent shall operate the aerosol can depressurizing equipment for a minimum of two years after the initial installation and start of operation of the aerosol can equipment.

The Respondent intends to operate the antifreeze recycling equipment and the aerosol can depressurizing equipment for the life of the equipment.

III. Required Actions and Reporting

Respondent shall perform the required actions in accordance with the following deadlines:

Required Actions	Description and Deadline
Installation, Training and Operation of Antifreeze Recycling Units and Aerosol Can Depressurizing Equipment	<p>Within 180 days of the effective date of the CAFO, the Respondent shall install, train employees and begin operation of at least 16 antifreeze recycling units at the Facility to recycle used antifreeze generated on site. All employees that operate the equipment during the project's operation shall be trained.</p> <p>Within 180 days of the effective date of the CAFO, the Respondent shall install at least 80 aerosol can depressurizing devices suitable for the capture of contained materials to facilitate the recycling of the empty aerosol cans. Respondent shall train all employees who operate the equipment and begin operation of the aerosol can depressurizing equipment within 180 days of the effective date of the CAFO.</p>
Submission of Interim SEP Report on Installation, Training and Operation of Antifreeze Recycling Units and Aerosol Can Depressurizing Equipment	<p>Within 210 days of the effective date of the CAFO, the Respondent shall send an Interim SEP Report to EPA. The Interim SEP Report shall document that installation has been completed, employees have been trained and that operations are underway for both the projects that comprise the SEP (the antifreeze recycling and the aerosol can depressurizing). The Interim Report shall contain invoices on the equipment procurement and evidence that the equipment has been installed and is</p>

	operational. The Interim Report shall also include documentation on the training program that has been established to ensure that all employees operating the equipment have been trained in the proper operation of the equipment.
Submission of SEP Completion Report	Within 30 months of the effective date of the CAFO, but no earlier than 24 months after the start of operation of the antifreeze recycling units and aerosol can depressurizing equipment, send a SEP Completion Report, as described in Part IV of Attachment A to the Consent Agreement, to EPA.

IV. SEP Completion Report

Within 30 months of the effective date of the CAFO, but no earlier than 24 months after the start of operation of the antifreeze recycling units and aerosol can depressurizing equipment, and as described in the Consent Agreement and this Attachment, Respondent shall prepare and transmit a "SEP Completion Report" to EPA which contains, at a minimum, the following information:

- (1) A description of each SEP as implemented;
- (2) Certification that each SEP has been fully implemented pursuant to the provisions of this Consent Agreement, including Attachment A;
- (3) Documentation providing evidence of completion and operation of the SEP, including but not limited to photos, invoices, receipts, and correspondence;
- (4) Documentation on the training program developed to ensure that all relevant employees have been trained in the proper operation of the equipment, the number of employees trained and a description of any challenge encountered in maintaining the training program;
- (5) Documentation of all SEP expenditures;
- (6) A description of the environmental and public health benefits resulting from implementation of the SEP;
- (7) Documentation of hazardous waste reduction and cost savings from SEP Project implementation, broken down by antifreeze recycling units and the aerosol can depressurizing units, and by any other categories Respondent may choose. This shall include at a minimum: Quantities of antifreeze that have been recycled and procured as well as any required additives to ensure the recycled antifreeze meets the specifications for tactical and non-tactical vehicles and the quantity of empty and drained aerosol cans processed for recycling;
- (8) A description of any problems encountered, such as unexpected equipment maintenance, breakdowns, and failure to perform to standard, and the solutions thereto, including any lessons learned which EPA or Respondent may apply to future projects involving antifreeze recycling or aerosol can depressurization; and

- (9) An assessment of the transferability of these technologies and best management practices to other Department of Defense installations with similar waste streams such as Eielson Air Force Base, Joint Base Elmendorf-Richardson, and other Installation Management Command installations worldwide.

VI. Submissions

Unless otherwise instructed in writing by EPA, Respondent shall submit all reports required by this Consent Agreement and Attachment A by first class mail, overnight mail, or hand delivery, with a copy by electronic mail to:

Cheryl Williams
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-101
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
Williams.CherylB@epa.gov