



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

REGULAR MAIL

March 10, 2009

Lori Weidner
U.S. Environmental Protection Agency
Cincinnati Finance Center
26 W. MLK Drive
Cincinnati, OH 45268

Re: Accounts Receivable
In the Matter of Government of the District of Columbia
Department of Public Works
Consent Agreements and Final Orders
Docket No. RCRA-03-2009-0087; Docket No. RCRA-03-2009-0088

Dear Ms. Weidner:

Enclosed please find a true and correct copy of the Consent Agreements and Final Orders, and the Enforcement Accounts Receivable Control Number Forms (EARCNF) filed with the Regional Hearing Clerk today in settlement of the above referenced subject matters.

Should you have any question or require further information, please feel free to call me at (215) 814-2681.

Sincerely,

A handwritten signature in black ink, appearing to read "Louis F. Ramalho".

Louis F. Ramalho
Sr. Asst. Regional Counsel

Enclosures

cc: Lydia Guy
Regional Hearing Clerk
U.S. EPA, Region III





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

FedEX
Signature Confirmation Requested

March 10, 2009

Ms. Pamela B. Washington
Assistant General Counsel
Office of Attorney General
Government of the District of Columbia
Department of Public Works
2000 14th Street., N.W.
Washington, DC 20009

RE: Consent Agreement and Final Order
Docket No. RCRA-03-2009-0087; Docket No. RCRA-03-2009-0088

Dear Ms. Washington:

Enclosed please find a true and correct copy of the Consent Agreements and Final Orders filed today with the Regional Hearing Clerk in settlement of the above referenced matters.

Thank you in advance for your assistance in the resolution of these matters. Should you have any questions or concerns regarding this matter, please contact me at (215) 814-2681.

Sincerely,


Louis F. Ramalho
Senior Asst. Regional Counsl

cc M. Toffel (3LC70)

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE FILLED OUT BY ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: L. Ramelho at 3/3/09
Name of Contact person Date

in the ORC at 27681
Office Phone number

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS
 Administrative Order/Consent Agreement FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt This is a modification

Name of Person and/or Company/Municipality making the payment
Dep. of Public Works, DC Government

The Total Dollar Amount of Receivable \$11,256.00

The Case Docket Number PCA-03-2009-0087
(If in installments, attach schedule of amounts and respective due dates)

The Site-Specific Superfund Acct. Number _____

The Designated Regional/HQ Program Office _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
Name of Contact Date

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

1. U.S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-002)
Cincinnati, OH 45268
Attn: Lori Weidner
2. Originating Office (ORC)
3. Designated Program Office

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

1. Originating Office
Regional Hearing Clerk
2. Designated Program Office
3. Regional Counsel

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION III
 1650 Arch Street
 Philadelphia, Pennsylvania 19103-2029**

In the Matter of:)	
)	
Fleet Management Administration)	
Department of Public Works	)	U.S. EPA Docket Number
Government of the District of Columbia	)	RCRA-03-2009-0087
1725 15 th Street, N.E.)	
Washington, D.C. 20002)	
)	
RESPONDENT,)	
	)	Proceeding Under Section 9006 of the
	)	Resource Conservation and Recovery Act,
DPW - Laurel Facility	)	as amended, 42 U.S.C. Section 6991e
8300 Riverton Court)	
Laurel, MD 20724)	
)	
FACILITY 1,)	
)	
DPW - West Virginia Ave. Fueling Facility	)	CONSENT AGREEMENT
1835 West Virginia Ave, N.E.)	
Washington, D.C. 20002)	
)	
FACILITY 2,)	
)	
DPW - 42 nd St. N.E. Fueling Facility)	
100 42nd Street, N.E.)	
Washington, D.C. 20019)	
)	
FACILITY 3.)	

CONSENT AGREEMENT

This Consent Agreement (“CA”) is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and the Fleet Management Administration of the Department of Public Works of the Government of the District of Columbia (“Respondent”), pursuant to Section 9006 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. § 6991e, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), 40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3).

RECEIVED
 REGION III
 03/17/09

This CA and the Final Order (collectively "CAFO"), resolve violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, the State of Maryland's federally authorized underground storage tank program, and the District of Columbia's federally authorized underground storage tank ("UST") program by Respondent in connection with its underground storage tanks at Respondent's facilities located at 8300 Riverton Court in Laurel, Maryland ("Facility 1"), 1835 West Virginia Ave, N.E. in Washington, D.C. ("Facility 2"), and 100 42nd Street, N.E. in Washington, D.C. ("Facility 3").

Effective July 30, 1992, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the State of Maryland 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 Maryland UST program, through this final authorization, are enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. Maryland's authorized underground storage tank program regulations are administered by the Maryland Department of the Environment ("MDE"), and are set forth in the Code of Maryland Regulations, Title 26, Subtitle 10, and will be cited as "COMAR" followed by the applicable section of the regulations.

In addition, 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 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 Consent Agreement ("CA"), the issuance of the attached Final Order ("FO"), or the enforcement thereof.
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 agrees 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 the Respondent certifies by his 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, the State of Maryland's federally authorized underground storage tank program set forth in COMAR § 26.10. *et seq.*, and the District of Columbia's federally authorized underground storage tank program set forth at 20 DCMR §§ 5500 *et seq.*, at the Facilities referenced herein.
8. The provisions of this CAFO shall be binding upon Respondent, and 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 the CA 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 Respondent 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 State of Maryland prior notice of the issuance of this CAFO in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).
13. 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

14. 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).
15. At all times relevant to this CAFO, Respondent has been the "owner" and/or "operator," as those terms are defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and (4), and COMAR § 26.10.02.04B(37) and (39), of the "underground storage tanks" ("USTs") and "UST systems" as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and COMAR § 26.10.02.04B(64) and (66), located at 8300 Riverton Court, Laurel, Maryland ("Facility 1"). Respondent is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and COMAR § 26.10.02.04B(40).
16. At all times relevant to this CAFO, Respondent has been the "owner" and/or "operator," as those terms are defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and (4), and 20 DCMR § 6899.1, of the "underground storage tanks" ("USTs") and "UST systems" as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and 20 DCMR § 6899.1, located at 1835 West Virginia Ave, N.E., Washington, D.C. ("Facility 2"). Respondent is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 20 DCMR § 6899.1.
17. At all times relevant to this CAFO, Respondent has been the "owner" and/or "operator," as those terms are defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and (4), and 20 DCMR § 6899.1, of the "underground storage tanks" ("USTs") and "UST systems" as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and 20 DCMR § 6899.1, located at 100 42nd Street, N.E., Washington, D.C. ("Facility 3"). Respondent is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 20 DCMR § 6899.1.
18. On September 28, 2007, Respondent entered into a Consent Agreement, Final Order and Settlement Conditions Document with EPA to perform a Multi-Facility Underground Storage Tank Compliance Audit, EPA Docket No. RCRA-03-2007-0045.
19. On June 3, 2008, Archer, Inc. ("Archer") performed an audit of Facility 1 on behalf of Respondent pursuant to the terms of the Settlement Conditions Document issued by the EPA to Respondent as indicated in Paragraph 18, above.
20. On March 13 and 14, 2008, Archer performed an audit of Facilities 2 and 3 on behalf of Respondent pursuant to the terms of the Settlement Conditions Document issued by the EPA to Respondent as indicated in Paragraph 18, above.

21. On September 9, 2008, the United States Environmental Protection Agency (EPA) Region III, Office of Land Enforcement, represented by Melissa Toffel and Martin Matlin, conducted a Compliance Evaluation Inspection (CEI) of DPW's fueling station located at 100 42nd Street, N.E., Washington, D.C. (Facility 3).
22. At the time of the September 9, 2008 CEI, and at all times relevant to the applicable violations alleged herein, two (2) USTs were located at Facility 3 as described in the following subparagraphs:

Facility 3

- A. A ten thousand (10,000) gallon double-walled fiberglass reinforced plastic tank that was installed in or about June 2000, and that, at all times relevant hereto, routinely contained and was used to store unleaded 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"), and
 - B. A ten thousand (10,000 gallon) double-walled fiberglass reinforced plastic tank that was installed in or about June 2000, and that, at all times relevant hereto, routinely contained and was used to store diesel fuel, 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. 2").
23. During the September 9, 2008 CEI of Facility 3, the EPA representatives reviewed documents which indicated a failure to perform annual testing of the line leak detectors for USTs Nos. 1 and 2 in 2008. Because Archer had determined, in error, that the line leak detectors for USTs Nos. 1 and 2 had been tested in 2008, EPA requested certain documentation from Respondent to confirm compliance with the line leak detector testing at Facility 1 and Facility 2.
 24. On September 17, 2008, EPA issued Respondent a Request for Information letter pursuant to Section 9005 of RCRA, as amended, 42 U.S.C. § 6991d, regarding UST compliance at the Respondent's Facility 1 and Facility 2.
 25. At the time of the March 13 and June 3, 2008 audits performed by Archer of Facility 2 and Facility 1, respectively, and at all times relevant to the applicable violations alleged herein, three (3) USTs were located at Facility 1 and three (3) USTs were located at Facility 2 as described in the following subparagraphs:

Facility 1

- A. A twenty thousand (20,000) gallon double-walled fiberglass reinforced plastic tank that was installed in or about 2001, and that, at all times relevant hereto, routinely contained and was used to store unleaded gasoline, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and COMAR § 26.10.02.04B(48) (hereinafter "UST No. 3"), and
- B. A five hundred and fifty (550) gallon single-walled fiberglass reinforced plastic tank that was installed in or about 1991, and that, at all times relevant hereto, routinely contained and was used to store diesel fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and COMAR § 26.10.02.04B(48) (hereinafter "UST No. 4"), and
- C. A one thousand (1,000) gallon single-walled fiberglass reinforced plastic tank that was installed in or about 1991, and that, at all times relevant hereto, routinely contained and was used to store diesel fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and COMAR § 26.10.02.04B(48) (hereinafter "UST No. 5").

Facility 2

- D. A thirty thousand (30,000) gallon double-walled fiberglass reinforced tank that was installed in or about 2000, and that, at all times relevant hereto, routinely contained and was used to store unleaded 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. 6"), and
- E. A twenty thousand (20,000) gallon double-walled fiberglass reinforced tank that was installed in or about 2000, and that, at all times relevant hereto, routinely contained and was used to store diesel fuel, 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. 7"), and
- F. A ten thousand (10,000) gallon double-walled fiberglass reinforced tank that was installed in or about 2003, and that, at all times relevant hereto, routinely contained and was used to store E-85 ethanol, 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. 8").

26. At all times relevant to the applicable violations alleged herein, USTs Nos. 1 and 2 located at Facility 3 have been “petroleum UST systems” and “new tank systems” as these terms are defined in 20 DCMR § 6899.1.
27. At all times relevant to the applicable violations alleged herein, USTs Nos. 3, 4, and 5 located at Facility 1 have been “petroleum UST systems” and “new tank systems” as these terms are defined in COMAR § 26.10.02.04B(43) and (31), respectively.
28. At all times relevant to the applicable violations alleged herein, USTs Nos. 6, 7, and 8 located at Facility 2 have been “petroleum UST systems” and “new tank systems” as these terms are defined in 20 DCMR § 6899.1.
29. USTs Nos. 1 and 2, located at Facility 3 are and were, at all times relevant to the applicable violations alleged in this CAFO, used to store “regulated substance(s)” at Respondent’s Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1, and have not been “empty” as that term is defined at 20 DCMR § 6100.7.
30. USTs Nos. 3, 4, and 5 located at Facility 1 are and were, at all times relevant to applicable violations alleged in this CAFO, used to store “regulated substance(s)” at Respondent’s Facility 1, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and COMAR § 26.10.02.04B(48), and have not been “empty” as that term is defined at COMAR § 26.10.10.01A.
31. USTs Nos. 6, 7, and 8 located at Facility 2 are and were, at all times relevant to the applicable violations alleged in this CAFO, used to store “regulated substance(s)” at Respondent’s Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1, and have not been “empty” as that term is defined at 20 DCMR § 6100.7.

FACILITY 1 VIOLATION
(subject to MD regulations)

COUNT 1

(Failure to perform automatic line leak detector testing annually on piping for UST No. 3 located at Facility 1)

32. The allegations of Paragraphs 1 through 31 of the CA are incorporated herein by reference.
33. COMAR § 26.10.05.02C(1) and (2) provide, in pertinent part, that underground piping that routinely contains and conveys regulated substances under pressure shall: Be equipped with an automatic line leak detector conducted in accordance with COMAR §

26.10.05.05B; and have an annual line tightness test conducted in accordance with COMAR § 26.10.05.05C or have monthly monitoring conducted in accordance with COMAR § 26.10.05.05D.

34. COMAR § 26.10.05.05B provides, in pertinent part, that an annual test of the operation of the line leak detector shall be conducted in accordance with the manufacturer's requirements.
35. From September 10, 2007 until September 9, 2008, the piping for UST No. 3 located at Facility 1 was underground, and routinely contained and conveyed regulated substances under pressure.
36. Respondent failed to perform an annual test of the automatic line leak detector for the underground piping for UST No. 3 located at Facility 1 from September 10, 2007 until September 9, 2008.
37. Respondent's acts and/or omissions as alleged in Paragraph 36, above, constitutes a violation by Respondent of COMAR § 26.10.05.02C(1) and (2) and COMAR § 26.10.05.05B.

FACILITY 2 VIOLATION
(subject to DC regulations)

COUNT 2

(Failure to perform automatic line leak detector testing annually on piping for UST No. 8 located at Facility 2)

38. The allegations of Paragraphs 1 through 37 of this CAFO are incorporated herein by reference.
39. 20 DCMR § 6004.2 provides that underground piping that routinely contains and conveys regulated substances under pressure shall be equipped with an automatic line leak detector, in accordance with 20 DCMR § 6013.2 of this chapter.
40. 20 DCMR § 6013.2 provides, in pertinent part, that the owner or operator shall conduct an annual test of the operation of the line leak detector in accordance with the manufacturer's requirements.
41. From January 1, 2006 until December 31, 2006, the piping for UST No. 8 located at Facility 2 was underground and routinely conveyed regulated substances under pressure.

- 42. Respondent failed to perform an annual test of the automatic line leak detectors for the underground piping associated with UST No. 6 located at Facility 2 from January 1, 2006 until December 31, 2006.
- 43. Respondent's acts and/or omissions as alleged in Paragraph 42, above, constitutes a violation by Respondent of 20 DCMR § 6004.2 and 20 DCMR § 6013.2.

FACILITY 3 VIOLATIONS
(subject to DC regulations)

COUNT 3

(Failure to perform automatic line leak detector testing annually on piping for USTs Nos. 1 and 2 located at Facility 3)

- 44. The allegations of Paragraphs 1 through 43 of this CAFO are incorporated herein by reference.
- 45. 20 DCMR § 6004.2 provides that underground piping that routinely contains and conveys regulated substances under pressure shall be equipped with an automatic line leak detector, in accordance with 20 DCMR § 6013.2 of this chapter.
- 46. 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.
- 47. From October 1, 2007 until September 9, 2008, the piping for USTs Nos. 1 and 2 located at Facility 3 was underground and routinely conveyed regulated substances under pressure.
- 48. Respondent failed to perform an annual test of the automatic line leak detectors for the underground piping associated with USTs Nos. 1 and 2 located at Facility 3 from December 6, 2007 until September 9, 2008
- 49. Respondent's acts and/or omissions as alleged in Paragraph 48, above, constitute violations by Respondent of 20 DCMR § 6004.2 and 20 DCMR § 6013.2.

COUNT 4

(Failure to investigate the possible release of product for UST No. 2 located at Facility 3)

- 50. The allegations of Paragraphs 1 through 49 of this CAFO are incorporated herein by reference.

51. 20 DCMR § 6203.3 provides, in pertinent part, that a “responsible party”, which includes the owner and operator of an UST, shall follow the procedures in 20 DCMR § 6203 (Preliminary Investigation and Confirmation of Releases: Systems Tests and Site Check) if a release is suspected. Pursuant to 20 DCMR § 6202.4(c), a release shall be suspected if, among other things, monitoring results from a release detection method required under 20 DCMR §§ 6002 through 6015 indicate a release may have occurred, unless the monitoring device is found to be defective and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result.
52. 20 DCMR § 6203.1 provides, with an exception not relevant to this matter, that a responsible party shall immediately investigate and confirm each suspected release of a regulated substance within 7 days or within such other time frame as may be required by the Director of DOE using the procedures set forth in 20 DCMR § 6203.
53. Respondent failed to undertake an immediate investigation and confirm a release or suspected release of regulated substances within the time prescribed by 20 DCMR § 6203.1 when the diesel interstitial sensor for UST No. 2 located at Facility 3, which had been alarming from July 14, 2008 until the CEI on September 9, 2008, indicated that a release may have occurred. Respondent reset the alarm approximately 4 times without further investigation into the reason for the alarm and did not find the monitoring device in issue to be defective and/or Respondent did not immediately repair, recalibrate, or replace any such defective device and/or Respondent did not thereafter conduct additional monitoring which did not confirm the initial monitoring result.
54. Respondent’s act and/or omission as alleged in Paragraph 53, above, constitutes a violation by Respondent of 20 DCMR § 6203.1.

COUNT 5

(Failure to report to the implementing agency a suspected release for UST No. 2 located at Facility 3)

55. The allegations of Paragraphs 1 through 54 of this CAFO are incorporated herein by reference.
56. 20 DCMR § 6202.1 provides, in pertinent part, that a “responsible party” (which as defined in 20 DCMR § 6899.1, includes the owner and operator of an UST), or any authorized agent of a responsible party, who knows or has reason to know of a release from an underground storage tank shall notify the Director of the District of Columbia Department of the Environment (“DOE”) (formerly the Director of the Department of Consumer and Regulatory Affairs) of the release or suspected release within 24 hours.
57. 20 DCMR § 6202.2 provides, in pertinent part, that the notification required pursuant to 20 DCMR § 6202.1 may be provided orally or in writing, and shall consist of, if known,

the name of the owner, operator and any other responsible party, as well as the location, date, time, volume, and substance of the release or suspected release.

58. 20 DCMR § 6202.3 provides that a responsible party shall not knowingly allow any release from an UST system to continue; a responsible party for an UST system shall notify the Director of DOE of any release or potential release within twenty-four hours, and shall follow the procedures in § 6203, if a release is suspected.
59. 20 DCMR § 6202.4(c) provides that a responsible party, including the owner and operator of an UST system, shall suspect a release if, among other things, monitoring results from a release detection method required under 20 DCMR §§ 6002 through 6015 indicate a release may have occurred from the UST system, unless the monitoring device is found to be defective and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result.
60. During the CEI on September 9, 2008, the monthly release detection monitoring results for UST No. 2 located at Facility 3 indicated that a release may have occurred as described in Paragraph 59, above. Respondent did not find the monitoring device in issue to be defective and/or Respondent did not immediately repair, recalibrate, or replace any such defective device and/or Respondent did not thereafter conduct additional monitoring which did not confirm the initial monitoring result.
61. Respondent did not report within 24 hours to the Director of DOE the release or suspected release as described in Paragraph 60 above.
62. Respondent's act and/or omission as alleged in Paragraph 61, above, constitutes a violation by Respondent of 20 DCMR § 6202.1 and .3.

COMPLIANCE ORDER

63. Pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, Respondent is hereby ordered to:
 - A. Immediately upon the effective date of this CAFO, report all releases and suspected releases of regulated substances at Facility 3 in accordance with 20 DCMR § 6202.
 - B. Immediately upon the effective date of this CAFO, investigate and confirm all suspected releases of regulated substances at Facility 3 in accordance with 20 DCMR § 6203.
 - C. Within thirty (30) days of the effective date of this Compliance Order, submit to EPA a report which documents and certifies Respondent's compliance with the terms of this Compliance Order.

64. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this CAFO which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this CAFO shall be certified by a principal executive officer or ranking elected official as defined at 40 C.F.R. § 270.11(a).

The certification required above shall be in the following form:

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

Signature: _____

Name: _____

Title: _____

65. All documents and reports to be submitted pursuant to this CAFO shall be sent to the following persons:
- A. Documents to be submitted to EPA shall be sent either by overnight mail or by certified mail, return receipt requested to:

Melissa Toffel (3LC70)
U. S. Environmental Protection Agency Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103

- B. One copy of all documents for Facility 1 submitted to EPA shall be sent by first class mail to:

Mr. Herb Meade
Administrator, Oil Control Program
Maryland Department of the Environment
Montgomery Park Business Center
1800 Washington Blvd., Suite 620
Baltimore, MD 21230

- C. One copy of all documents for Facilities 2 and 3 submitted to EPA shall be sent by first class mail to:

Ms. Deborah Thomas
Department of the Environment
District of Columbia
51 N Street, N.E. 6th Floor
Washington, D.C. 20002

CIVIL PENALTY

66. In settlement of Complainant's claims for civil penalties for the violations alleged in this CA, Respondent agrees to pay a civil penalty in the amount of Eleven Thousand Two Hundred Fifty-Six Dollars (\$11,256.00) and perform the tasks set forth in the Compliance Order. The civil penalty amount is due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO. If Respondent pays the entire civil penalty within thirty (30) calendar days of the date on which this CAFO is mailed or hand-delivered to Respondent, no interest will be assessed against Respondent pursuant to 40 C.F.R. § 13.11(a)(1).
67. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.
68. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

69. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
70. A late payment penalty of six percent per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
71. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors in RCRA Section 9006(c) - (e), 42 U.S.C. § 6991e(c) - (e), and with EPA's Penalty Guidance for Violations of UST Regulations ("UST Guidance") dated November 4, 1990.
72. Respondent shall pay the amount described in Paragraph 66, above, by sending a certified or cashier's check payable to the "United States Treasury," as follows:
- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2009-0087;
 - b. All checks shall be made payable to "**United States Treasury**";
 - c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

Contact: Natalie Pearson, 314-418-4087
 - d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency--Fines and Penalties
U.S. Bank
1005 Convention Plaza

Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson, 314-418-4087

- e. All payments made by electronic wire transfer shall be directed to:

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 Fedwire message should read "D 68010727 Environmental Protection Agency"

- f. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact: Jesse White 301-887-6548

ABA = 051036706
Transaction Code 22 - Checking
Environmental Protection Agency
Account 310006
CTX Format

- g. On-Line Payment Option:

WWW.PAY.GOV

Enter sfo 1.1 in the search field. Open and complete the form.

- h. The customer service phone numbers for the above payment centers are:

212-720-5000 (wire transfers, Federal Reserve Bank of New York)
800-762-4224 (ACH/Wire Info, PNC Bank)

Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment_cin.htm

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

FULL AND FINAL SATISFACTION

73. 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

74. 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

75. 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 THE PARTIES

76. 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

77. 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.

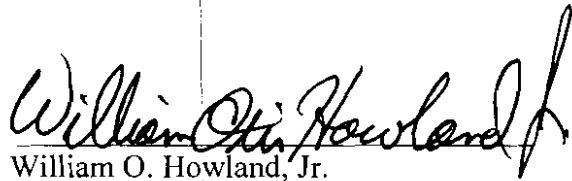
EFFECTIVE DATE

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

For Respondent:

Fleet Management Administration of the
Department of Public Works of the
Government of the District of Columbia

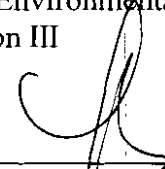
2-19-2009
Date


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

For Complainant:

U.S. Environmental Protection Agency,
Region III

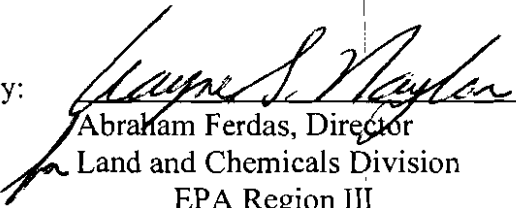
3-3-2009
Date



Louis F. Ramalho
Senior Assistant Regional Counsel

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

3/5/09
Date

By: 
Abraham Ferdas, Director
Land and Chemicals Division
EPA Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

In the Matter of:)	
)	
Fleet Management Administration)	
Department of Public Works	)	U.S. EPA Docket Number
Government of the District of Columbia	)	RCRA-03-2009-0087
1725 15 th Street, N.E.)	
Washington, D.C. 20002)	
)	
RESPONDENT,)	
	)	Proceeding Under Section 9006 of the
	)	Resource Conservation and Recovery Act,
DPW - Laurel Facility	)	as amended, 42 U.S.C. Section 6991e
8300 Riverton Court)	
Laurel, MD 20724)	
)	
FACILITY 1,)	
)	
DPW - West Virginia Ave. Fueling Facility)	
1835 West Virginia Ave, N.E.)	
Washington, D.C. 20002)	
)	
FACILITY 2,)	
)	
DPW - 42 nd St. N.E. Fueling Facility)	
100 42nd Street, N.E.)	
Washington, D.C. 20019)	
)	
FACILITY 3.)	

FINAL ORDER

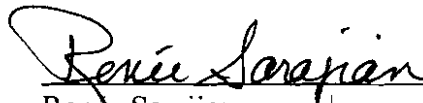
Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Fleet Management Administration of the Department of Public Works of the Government of the District of Columbia, have executed a document entitled "Consent Agreement" which I hereby 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. 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) - (e) of RCRA, 42 U.S.C. § 6991e(c) - (e), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of Eleven Thousand Two Hundred Fifty-Six Dollars (\$11,256.00) 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: 3/9/09



Renee 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, EPA Docket No. RCRA-03-2009-0087, 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 via first class mail to the following:

Ms. Pamela B. Washington
Assistant General Counsel
Office of Attorney General
Government of the District of Columbia
Department of Public Works
2000 14th Street., N.W.
Washington, DC 20009

3/10/09
Date



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