

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

In the Matter of:)	
)	
Yu's Services, Inc.)	U.S. EPA Docket Number
1800 18 th Street, NW)	Docket No. RCRA-03-2008-0330
Washington, DC 20009)	
)	Proceeding Under Section 9006(a) of the
RESPONDENT,)	Resource Conservation and Recovery
)	Act, as amended, 42 U.S.C. § 6991e(a).
18 th Street BP Amoco)	
1800 18 th Street, NW)	
Washington, DC 20009)	
)	FINAL ORDER
FACILITY.)	
)	
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FINAL ORDER

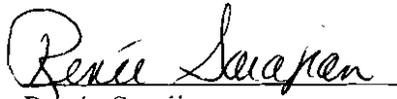
Complainant, the Associate Director for Enforcement, Waste and Chemicals Management Division, U.S. Environmental Protection Agency - Region III, and Respondent, Yu's Services, Inc., has executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the 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 shall pay a civil penalty in the amount of Sixteen Thousand Three Hundred Fifty-Seven Dollars (\$16,357.00) 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: 6/25/08


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

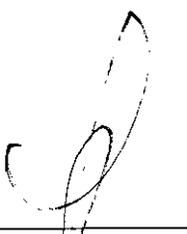
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date listed below, the original of the foregoing Consent Agreement and Final Order, Docket No. RCRA-03-2008-0330, 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:

Harry C. Storm, Esq.
Lerch, Early & Brewer
3 Bethesda Metro Center
Suite 460
Bethesda, MD 20814-5367

6/26/08
Date



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

6/26/08
1650 Arch Street
Philadelphia, PA 19103-2029

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

SUBJECT: Transmittal Memorandum
Consent Agreement and Final Order
In the Matter of Yu's Services, Inc.
Docket No. RCRA-03-2008-0330

FROM: William C. Early 
Regional Counsel (3RC00)

Abraham Ferdas, Director 
Waste and Chemicals Management Division (3WC30)

TO: Renée Sarajian
Regional Judicial Officer (3RC00)

The attached Consent Agreement and Final Order ("CAFO") has been negotiated 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).

The CAFO resolves violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and the District of Columbia's federally authorized Underground Storage Tank (UST) program by Respondent, Yu's Services, Inc., in connection with the USTs located at 1800 18th Street, NW, Washington, DC 20009 (the "Facility"). Please refer to the CAFO for further details concerning the violations at the Facility.

Under the terms of the settlement, Respondent will pay a civil penalty in the amount of \$16,357.00. This settlement was determined after consideration of the statutory factors set forth in Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), and other settlement adjustment factors set forth in the "U.S. Penalty Guidance for Violation of UST Regulations" dated November, 1990.

We concur with the terms of the enclosed Consent Agreement and Final Order. Accordingly, we recommend that you sign the Final Order and return it to the Office of Regional Counsel for further processing.

cc: Harry C. Storm, Esq.
Counsel for Respondent

Louis F. Ramalho, Esq.
U.S. EPA, Region III

92-113 92-113 92-113

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

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Yu's Services, Inc.)	
1800 18 th Street, NW)	U.S. EPA Docket Number
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RESPONDENT,)	Proceeding Under Section 9006 of the
18 th Street BP Amoco)	Resource Conservation and Recovery Act,
1800 18 th Street, NW)	as amended, 42 U.S.C. Section 6991e
Washington, DC 20009)	
)	
FACILITY.)	
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CONSENT AGREEMENT

This Consent Agreement ("CA") is entered into by the Director, Waste and Chemicals Management Division, U.S. Environmental Protection Agency, Region III ("EPA" or "Complainant"), and Yu's Services, Inc. ("Respondent"), pursuant to Sections 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).

This CA and the Final Order (collectively "CAFO") resolve violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and the District of Columbia's federally authorized underground storage tank ("UST") program by Respondent in connection with the USTs at Respondent's facility located at 1800 18th Street, NW, Washington, DC (the "Facility").

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.*

EPA has given the District of Columbia notice of the issuance of this CAFO in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

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 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 Respondent certifies to EPA by his/her signatures 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 UST 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 it to separate civil and/or criminal liability.

FACTUAL ALLEGATIONS AND CONCLUSIONS OF LAW

11. 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).
12. Respondent, Yu's Services, Inc. ("Yu's Service"), is a District of Columbia corporation doing business as 18th Street BP Amoco, and is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. Section 6991(5), and 20 DCMR § 6899.1.
13. At all times relevant to this CAFO, Respondent has been the "owner" and "operator", as these terms are defined in Sections 9001(4) and (3) of RCRA, 42 U.S.C. § 6991(4) and (3), and 20 DCMR § 6899.1, of the "underground storage tank" 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 1800 18th Street, NW, Washington, DC (the "Facility").
14. On November 27, 2007, an EPA representative conducted a Compliance Evaluation Inspection ("CEI") of the Facility pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.
15. At the time of the November 27, 2007, and at all times relevant to the applicable violations alleged herein, two (2) USTs, as described in the following subparagraphs, were located at the Facility.
 - A. A twelve thousand (12,000) gallon double-walled composite tank that was installed in May 2003 and that, at all times relevant hereto, routinely contained and was used to store 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 twelve thousand (12,000) gallon double-walled composite tank that was installed in May 2003 and that, at all times relevant hereto, routinely contained and was used to store 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.2").
16. At all times relevant to the applicable violations alleged herein, the USTs have been "petroleum UST systems" and "new tank systems", as these terms are defined in 20 DCMR § 6899.1, respectively.

17. At all times relevant to the applicable violations alleged herein, the USTs were 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 have not been "empty" as that term is defined at 20 DCMR § 6100.7.
18. Pursuant to RCRA Section 9005, 42 U.S.C. § 6991d, on December 18, 2007, EPA issued an Information Request to Respondent concerning its petroleum UST systems at the Facility.

COUNT I

(Failure to perform automatic line leak detector testing annually on
USTs Nos. 1 and 2)

19. The allegations of Paragraphs 1 through 18 of the CA are incorporated herein by reference.
20. 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.
21. 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.
22. 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.
23. 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.
24. 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.
25. From July 1, 2003 until the date of this CA, the underground piping for USTs Nos. 1 and 2 conveyed regulated substances under pressure.
26. Respondent conducted a testing of the automatic line leak detectors for the underground piping associated with the USTs Nos. 1 and 2 on March 12, 2008.

27. Respondent failed to perform an annual test of the automatic line leak detectors for the underground piping associated with the USTs Nos. 1 and 2 from July 1, 2003 through March 11, 2008.
28. Respondent's acts and/or omissions as alleged in Paragraph 27 above, constitute violations by Respondent of 20 DCMR § 6004.2 and 20 DCMR § 6013.2.

COUNT II

(Failure to maintain release detection records at the Facility)

29. The allegations of Paragraphs 1 through 28 of this CA/FO are incorporated herein by reference.
30. 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.
31. 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, certain 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.
32. 20 DCMR § 5602.4(c) provides that each UST system owner or operator shall maintain information of recent compliance with release detection requirements pursuant to 20 DCMR § 6001.
33. Pursuant to 20 DCMR § 6001.1, owners and operators of each UST systems shall maintain records in accordance with 20 DCMR § 5602 demonstrating compliance with all applicable requirements of DCMR.
34. 20 DCMR § 6001.3 and .4 provide that the results of any sampling, testing, or monitoring shall be maintained for 3 years, except the results for tank tightness testing conducted in accordance with 20 DCMR § 6007 shall be retained until the next test of the UST system is conducted.
35. From at least March 1, 2005 until February 29, 2008, Respondent failed to maintain records of release detection monitoring which had been performed for UST Nos. 1 and 2 in accordance with 20 DCMR § 5602.4(c) and 20 DCMR § 6001.3 and .4.
36. From at least March 1, 2005 until February 29, 2008, Respondent failed to maintain records of release detection monitoring which had been performed for USTs Nos. 1 and 2 in accordance with 20 DCMR § 5602.4(c) and 20 DCMR § 6001.3 and .4.

37. Respondent's acts and/or omissions as alleged in Paragraphs 35 and 36, above, constitute violations by Respondent of 20 DCMR § 5602.4(c) and 20 DCMR § 6001.

CIVIL PENALTY

38. 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 Sixteen Thousand Three Hundred Fifty-Seven Dollars (\$16,357.00). The civil penalty amount is due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO.
39. 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.
40. Respondent shall pay the amount described in Paragraph 38, above, by sending certified or cashier's checks 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 each Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO. A copy of each 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

41. 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

42. EPA reserves the right to commence an 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.

43. 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 with this CAFO.

OTHER APPLICABLE LAWS

44. 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

45. The undersigned representative of each 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

46. 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

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

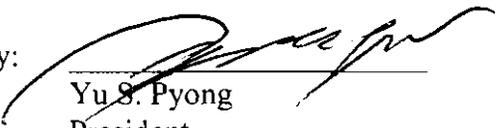
For Respondent:

Yu's Services, Inc.

5-29-08

Date

by:


Yu S. Pyong
President

For Complainant:

U.S. Environmental Protection Agency,
Region III

6/5/08

Date

Louis F. Ramalho
For *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.

6/11/08

Date

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

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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19-0179 92006(a)

FINAL ORDER

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Date: 6/25/08


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

CERTIFICATE OF SERVICE

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