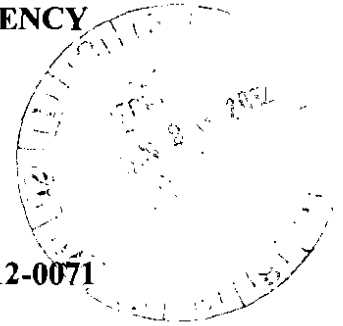


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103



In Re: :
: **Docket No. RCRA-03-2012-0071**
Sentara Norfolk General Hospital :
600 Gresham Drive :
Norfolk, VA 23507 :
: **CONSENT AGREEMENT**
RESPONDENT :
: Proceeding under 3008(a) and (g) of the
600 Gresham Drive : Resource Conservation and Recovery
Norfolk, VA 23507 : Act, *as amended*, 42 U.S.C. § 6928(a) and (g)
: **FACILITY** :

I. PRELIMINARY STATEMENT

1. This Consent Agreement (“CA”) is entered into by the Director, Land and Chemicals Division, United States Environmental Protection Agency, Region III (“Complainant” or “EPA”), and Sentara Norfolk General Hospital (“Sentara” or “Respondent”), pursuant to 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. Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, this CA and the attached Final Order (“FO,” hereinafter jointly referred to as the “CA/FO”) both commence and conclude the above-captioned administrative proceeding against Respondent, brought under Section 3008(a) and (g) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a) and (g), for alleged violations of RCRA at Respondent’s facility at 600 Gresham Drive, Norfolk, VA 23507 (the “Facility”).
2. On December 18, 1984, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, Virginia was granted final authorization to administer a state hazardous waste management program *in lieu* of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. The authorized Virginia hazardous waste management program (“VHWMP”) was revised, effective September 29, 2000 (*see 65 Fed. Reg.* 46606 (July 31, 2000)), June 20, 2003 (*see 68 Fed. Reg.* 36925 (June 20, 2003)), July 10, 2006 (*see 71 Fed. Reg.* 27216 (May 10, 2006)) and July 30, 2008 (*see 73 Fed. Reg.* 44168 (July 30, 2008)). The current provisions of the VHWMP are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. Section 6928(a).

3. The 2003 VHWMP, with exceptions not relevant to this matter, incorporates by reference the federal hazardous waste regulations as set forth in the July 1, 2001 Code of Federal Regulations. Citations in this CA to the 2003 VHWMP will set forth the appropriate federal regulation as well as the Virginia provision which incorporates such federal regulation by reference.
4. This CA is entered into by Complainant and Respondent to address the violations alleged in the Findings of Fact, as set forth below.
5. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of this CA, as set forth in this CA/FO.
6. For the purposes of this proceeding only, Respondent neither admits nor denies the Findings of Fact contained in this CA, except as provided in Paragraph 5, above.
7. For the purposes of this proceeding only, Respondent neither admits nor denies the Conclusions of Law contained in this CA, except as provided in Paragraph 5, above.
8. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations herein or to appeal the FO attached hereto.
9. The settlement agreed to by the parties in this CA reflects the desire of the parties to resolve this matter without litigation.
10. Respondent consents to the issuance of this CA and to the attached FO and agrees to comply with their terms. Respondent agrees not to contest Complainant's jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement thereof.
11. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

Notice of Action to the Commonwealth of Virginia

12. EPA has given the Commonwealth of Virginia prior notice of the issuance of this CA/FO in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

In accordance with 40 C.F.R. Sections 22.13(b) and 22.18(b)(2) and (3), Complainant alleges the following findings of fact and conclusions of law:

13. As set forth in Paragraphs 6 and 7, above, Respondent neither admits nor denies these Findings of Fact and Conclusions of Law, but agrees to this settlement to avoid further litigation, as set forth in Paragraph 9, above.

14. Respondent is, and was at the time of the violations alleged herein, a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15), and 9 VAC 20-60-260.A, which incorporates by reference 40 C.F.R. § 260.10 with exceptions not relevant herein.
15. Respondent is and, at all times relevant to the violations alleged in this CA, was the “owner” and “operator” of a “facility” located at 600 Gresham Drive, Norfolk, Virginia (“the Facility”), as those terms are defined in 9 VAC 20-60-260.A, which incorporates by reference 40 C.F.R. § 260.10 with exceptions not relevant herein and has been assigned EPA ID No. VAD982662728.
16. On August 25, 2010, EPA, accompanied by representatives of the Virginia Department of Environmental Quality (“VADEQ”), conducted an inspection at the Facility (hereinafter “the Inspection”). At the time of the Inspection, and at all times relevant to the violations alleged in this CA/FO, Respondent was a “small quantity “generator” of greater than 100 kg but less than 1000kg of “hazardous waste” at the Facility described herein as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference into 9 VAC 20-60-260.
17. At the time of the Inspection, Respondent was engaged in the “storage” of “hazardous waste” in “containers” at the Facility as described herein, as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference by and/or as defined 9 VAC 20-60-260.

COUNT I
(Operating without a permit)

18. The allegations of Paragraphs 1 through 17 of this Consent Agreement are incorporated herein by reference.
19. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 9 VAC 20-60-270.A, which incorporates by reference 40 C.F.R. § 270.1(b), no person may own or operate a facility for the treatment, storage or disposal of hazardous waste without first obtaining a permit or interim status for such facility.
20. 9 VAC 20-60-262 (which incorporates by reference 40 C.F.R. Section 262.34 (d)(4)), requires that generators who generate greater than 100 kg but less than 1000 kg of hazardous waste in a calendar month must comply with the requirements of 40 C.F.R. Section 262.34(a)(2) and (3), which provide that the date upon which each accumulation period begins in clearly marked on each container and that each container is labeled or marked with the words “hazardous waste.”
21. 9 VAC 20-60-262 (which incorporates by reference 40 C.F.R. Section 262.34(c)(1)) provides that a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status provided he complies with 40 C.F.R. Sections 265.171, 265.172, and

265.173(a) and marks the containers with the words "Hazardous Waste" or other words that identify the contents of the containers.

22. At the time of the Inspection, Respondent was storing hazardous waste generated at the Facility in that in the Hazardous Waste Accumulation area and the Autopsy Lab there was observed:
 - a. One 55-gallon black metal drum labeled "Xylene" (F003/D001 hazardous waste) with 8-10 gallons of waste;
 - b. One large plastic container that was not empty which had a hazardous waste sticker on it;
 - c. One large plastic container that contained bluing reagent (F003 hazardous waste);
 - d. Ten black containers that were not empty which contained either "Schiff's reagent" or "Bluing agent" (F003 hazardous waste) labels;
 - e. One red bag that was not empty labeled "waste xylene" (F003/D001 hazardous waste);
 - f. One blue 30-gallon container that was not empty in the Autopsy lab of formalin (D002 hazardous waste) waste containing waste generated and transferred from another location in the Facility; and
 - g. One white 55-gallon plastic container that was not empty with a hazardous waste label in the Autopsy lab labeled "Immunohistology chemistry (IHC) waste" with no accumulation start date which contained waste generated and transferred from another location in the Facility.
23. The containers described in Paragraph 22.c., d., and e., above, were not marked with the words "Hazardous Waste" as required by 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. Section 262.34(a)(3).
24. The containers described in Paragraph 22.a. – e., and g., above, were not marked with the date upon which each period of accumulation of the hazardous waste contained therein began, as required by 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. Section 262.34(a)(2).
25. The containers described in Paragraph 22.f. and g., above, contained hazardous waste that was not generated at or near the containers, was not under the control of the operator of the process generating the waste(s) as required by 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. Section 262.34(c)(1).
26. 40 C.F.R. Part 265, Subpart I (which is incorporated by reference in 40 C.F.R. Section 262.34(c)(1)(i) which, in turn, is incorporated by reference in 9 VAC 20-60-262), includes 40 C.F.R. Section 265.173(a), which provides that a container holding hazardous waste must always be closed during storage, except when necessary to add or remove waste.

27. At the time of the Inspection, Respondent was storing at the Facility the container described in Paragraph 22.a., above, which was open, even though it was not necessary to add or remove hazardous waste, in violation of 40 C.F.R. Section 265.173(a) (which is incorporated by reference in 40 C.F.R. Section 262.34(c)(1)(i) which, in turn, is incorporated by reference in 9 VAC 20-60-262).
28. At the time of the Inspection, "hazardous wastes" referred to in Paragraph 22, above, generated by the Respondent were in "storage" in "containers" at the Facility as those terms are described by 9 VAC 20-60-262.A, which incorporates by reference 40 C.F.R. § 262.34.
29. At the time of the Inspection, Respondent failed to qualify for the "less than 180 day" generator accumulation exemption of 9 VAC 20-60-262.A, which incorporates by reference 40 C.F.R. § 262.34(d), for the activities described in Paragraphs 22 through 27, above, by failing to satisfy the conditions for such exemption as set forth in 9 VAC 20-60-262.A, which incorporates by reference 40 C.F.R. § 262.34(d).
30. Respondent's Facility is a hazardous waste treatment, storage or disposal "facility", as that term is defined by 9 VAC 20-60-270.A, with respect to the activities described in Paragraphs 22 through 27, above.
31. Respondent has never had a permit or interim status pursuant to 9 VAC 20-60-270.A, which incorporates by reference 40 C.F.R. § 270.1(b), or Section 3005 of RCRA, 42 U.S.C. § 6925, for the storage of hazardous waste at the Facility.
32. Respondent was required by 9 VAC 20-60-270.A, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), to obtain a permit for the activities described in Paragraphs 22 through 27, above.
33. At the time of the Inspection, Respondent violated 9 VAC 20-60-270.A, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by storing hazardous waste in containers at the Facility, as described above, without a permit, interim status or valid exemption.

COUNT II

(Failure to Keep Containers Closed)

34. The allegations of Paragraphs 1 through 33 of this Consent Agreement are incorporated herein by reference.
35. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. Section 262.34(d)(2) (which in turn incorporates, 40 C.F.R. Section 264.173(a)), provides that a container holding hazardous waste must always be closed during storage, except when necessary to add or remove waste.

36. At the time of the Inspection, Respondent was storing at the Facility the container described in Paragraph 22.a., above, which was open, even though it was not necessary to add or remove hazardous waste, in violation of 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. Section 264.173(a).

COUNT III

(Failure to Properly Manage Universal Waste)

37. The allegations of Paragraphs 1 through 36 of this Consent Agreement are incorporated herein by reference.
38. 9 VAC 20-60-273, which incorporates by reference 40 C.F.R. § 273.14(a), requires universal Waste batteries (i.e. each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: “Universal Waste—Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).”
39. At the time of the Inspection, Respondent was a “small quantity handler of universal waste” as that term is defined at 9 VAC 20-60-273, which incorporates by reference, 40 C.F.R. § 273.9, and was storing universal waste batteries in a yellow bin container that contained spent alkaline, lead, and nickel-cadmium batteries in the Hazardous Waste Accumulation Area. This container was not labeled or marked clearly with any one of the following phrases: “Universal Waste—Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).”
40. At the time of the Inspection, Respondent failed to store universal waste batteries in a container with proper labels or marks, in violation of 9 VAC 20-60-273, which incorporates by reference 40 C.F.R. § 273.14(a).

COUNT IV

(Failure to Post Emergency Information)

41. The allegations of Paragraphs 1 through 40 of this CA/FO are incorporated herein by reference.
42. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. §§ 262.34(d)(5)(ii)(A), requires a generator of hazardous waste to post next to the telephone the following information: (a) the name and telephone number of the emergency coordinator; (b) the location of fire extinguishers and spill control material, and, if present, fire alarm; and (c) the telephone number for the fire department, unless the facility has a direct alarm.
43. At the time of the Inspection, the Respondent failed to post next to the telephone the name and telephone number of the emergency coordinator; the location of fire

extinguishers and spill control material, and, if present, fire alarm; and the telephone number for the fire department, in violation of 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(d)(5)(ii)(A).

III. CIVIL PENALTIES

44. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this CA/FO, Respondent consents to the assessment of a civil penalty in the amount of **\$19,920.00**, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct signed copy of this CA/FO, fully executed by the parties, signed by the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest in connection with such civil penalty as described in this CA/FO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of this CA/FO is mailed or hand-delivered to Respondent.
45. 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 the violations and good faith efforts of the Respondent to comply, as provided for in Section 3008(a)(3) of RCRA, 42 U.S.C. Section 6928(a)(3).
46. Respondent shall remit payment for the civil penalty set forth in Paragraph 44, above, by certified check or cashier's check, or by electronic funds transfer, in the following manner:
- A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2012-0071;
 - 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: 513-487-2105 or 513-487-2091

- D. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Bank

Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1028

- E. All payments made by check in any currency drawn with no USA branches shall be addressed to:

Cincinnati Finance
U.S. EPA, MS-NWD
26 W.M.L. King Drive
Cincinnati, OH 45268-0001

- F. 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"

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

U.S. Treasury REX/Cashlink ACH Receiver
ABA=051036706
Account No.: 310006, U.S. Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical Location of U.S. Treasury Facility
5700 Rivertech Court
Rivertech, Maryland 20737

Contact: 202-874-7026 or 1-866-234-5681

- H. On-Line Payment Option:

WWW.PAY.GOV

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

Additional payment guidance is available at:

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

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

Jeffrey S. Nast
Sr. Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

- J. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this CA/FO.
47. Pursuant to 31 U.S.C. Section 3717 and 40 C.F.R. Section 13.11, EPA is entitled to assess interest 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. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CA/FO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
48. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a true and correct copy of this CA/FO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the 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. Section 13.11(a).

49. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. Section 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.
50. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. Section 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

IV. CERTIFICATION OF COMPLIANCE

51. The person signing this CA on behalf of the Respondent certifies to EPA by his or her signature herein that Respondent, as of the date of its execution of this CA/FO, is in compliance with the provisions of RCRA, Subtitle C, 42 U.S.C. §§ 6901 *et seq.*, and the Commonwealth of Virginia's federally authorized hazardous waste program set forth at 9 VAC 20-60-260 *et seq.* at the Facility referenced herein. This certification is based on the personal knowledge of the signer or an inquiry of the person or persons responsible for the Facility's compliance with Subtitle C of RCRA.

V. OTHER APPLICABLE LAWS

52. Nothing in this CA/FO shall relieve Respondent of any duties or obligations otherwise imposed upon it by applicable Federal, State or local laws or regulations.

VI. RESERVATION OF RIGHTS

53. This CA/FO resolves only EPA's claims for civil penalties for the specific violations of RCRA Subtitle C which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, 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 there under, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CA/FO.

VII. FULL AND FINAL SATISFACTION

54. The settlement set forth in this CA/FO shall constitute full and final satisfaction of Complainant's claims for civil penalties for the specific violations set forth in the CA/FO.

VIII. PARTIES BOUND

55. This CA/FO shall apply to and be binding upon EPA, Respondent, and Respondent's officers, employees, agents, successors and assigns. By his/her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized to enter into this Agreement on behalf of Respondent and to bind Respondent to the terms and conditions of this CA/FO.

IX. EFFECTIVE DATE

56. The effective date of this CA/FO is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or his designee, is filed with the Regional Hearing Clerk.

X. ENTIRE AGREEMENT

57. This CA/FO constitutes 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 CA/FO.

For the Respondent:

Sentara Norfolk General Hospital

Date: 1/6/2012

By: Mary L. Blunt
Mary L. Blunt, President
Sentara Norfolk General Hospital

For the Complainant:

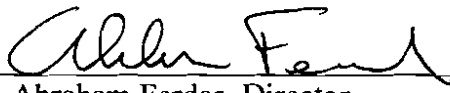
U.S. Environmental Protection Agency, Region III

Date: 1/11/2012

By: Jeffrey S. Nast
Jeffrey S. Nast
Sr. Assistant Regional Counsel

The Land and Chemicals Division, United States Environmental Protection Agency - Region III, recommends that the Regional Administrator of the U.S. EPA Region III or his designee issue the accompanying Final Order.

Date: 1/20/12

By: 
Abraham Ferdas, Director
Land and Chemicals Division

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

In Re:	:	
	:	
Sentara Norfolk General Hospital	:	Docket No. RCRA-03-2012-0071
600 Gresham Drive	:	
Norfolk, VA 23507	:	
	:	FINAL ORDER
RESPONDENT	:	
	:	
600 Gresham Drive	:	
Norfolk, VA 23507	:	
	:	
FACILITY	:	

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, **Sentara Norfolk General Hospital**, have executed a document entitled "Consent Agreement" which I ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are incorporated herein by reference.

NOW, THEREFORE, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a), and based upon the representations of the parties set forth in the Consent Agreement that the civil penalty amount agreed to by the parties in settlement of the above-captioned matter is based upon a consideration of the factors set forth in RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3), IT IS HEREBY ORDERED THAT Respondent shall pay a civil penalty in the amount of NINETEEN THOUSAND NINE-HUNDRED TWENTY DOLLARS (**\$19,920.00**) as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date: 1/24/12

BY: Renée Sarajian
Renée Sarajian
Regional Judicial Officer
United States Environmental Protection Agency
Region III

