

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

In the Matter of:

Transportation District Commission  
of Hampton Roads  
3400 Victoria Boulevard  
Hampton, Virginia 23661

Docket No. RCRA-03-2010-0033

RESPONDENT

Transportation District Commission  
of Hampton Roads  
3400 Victoria Boulevard  
Hampton, Virginia 23661

Transportation District Commission  
of Hampton Roads  
509 East 18<sup>th</sup> Street  
Norfolk, Virginia 23504

FACILITIES.

CONSENT AGREEMENT

**I. PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("EPA," "Agency" or "Complainant"), and the Transportation District Commission of Hampton Roads ("HRT" or "Respondent") pursuant to Section 9006 of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act ("RCRA") of 1976, as amended (hereinafter RCRA), 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 of Practice"), 40 C.F.R. Part 22, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3). This Consent Agreement and the accompanying Final Order address alleged violations by Respondent of RCRA and the Virginia Regulations for Underground Storage Tanks, 9 VAC Chapter 580, as authorized

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by EPA pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991e.

2. Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, this Consent Agreement and the attached Final Order (hereinafter jointly referred to as this CAFO) simultaneously commence and conclude an administrative proceeding against Respondent, brought under Section 9006 of RCRA, 42 U.S.C. § 6991e, to resolve alleged violations of RCRA at Respondent's facilities at the following locations:

Transportation District Commission of Hampton Roads  
3400 Victoria Boulevard  
Hampton, Virginia 23661

Transportation District Commission of Hampton Roads  
509 East 18<sup>th</sup> Street  
Norfolk, Virginia 23504

3. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
4. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this Consent Agreement, except as provided in Paragraph 3, above.
5. Respondent agrees not to contest EPA's jurisdiction with respect to the execution and issuance of this CAFO, or the enforcement of the CAFO.
6. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
7. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
8. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

#### **Notice of Action to the Commonwealth of Virginia**

9. EPA has given the Commonwealth of Virginia prior notice of the initiation of this action in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

#### **II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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

10. Respondent, is, and has been at all times relevant to this Consent Agreement, the owner and operator, as those terms are defined by Sections 9001(4) and (3) of RCRA, 42 U.S.C. §§ 6991(4) and (3), and 9 VAC 25-580-10 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 9 VAC 25-580-10 located at:

Transportation District Commission of Hampton Roads  
3400 Victoria Boulevard  
Hampton, Virginia 23661 ("Hampton Facility")

Transportation District Commission of Hampton Roads  
509 East 18<sup>th</sup> Street  
Norfolk, Virginia 23504 ("Norfolk Facility")

11. The Hampton Facility and Norfolk Facility referred to in Paragraph 10, above, are bus maintenance and fueling stations, including the underground storage tanks and all associated equipment and structures (hereinafter collectively, the "Facilities").
12. Pursuant to 9 VAC 25-580-10, the term underground storage tank or UST means, in pertinent part: any one or combination of tanks (including connected underground pipes) that is used to contain an accumulation of regulated substances and the volume of which (including the underground pipes connected thereto) is ten percent (10%) or more beneath the surface of the ground.
13. On September 24, 2007, EPA conducted a Compliance Evaluation Inspection of the Hampton Facility (the "Hampton CEI").
14. On September 25, 2007, EPA conducted a Compliance Evaluation Inspection of the Norfolk Facility (the "Norfolk CEI").
15. At the time of the September 24, 2007 Hampton CEI, and at all times relevant hereto, eleven (11) USTs, as described in the following subparagraphs, were located at the Hampton Facility:
- A. A 4,000 gallon tank that was installed on or about April 1, 1988 and that, at all times relevant hereto, routinely contained motor oil, a regulated substance as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580-10 ("Tank 1").
  - B. A 1,000 gallon tank that was installed on or about April 1, 1988 and that, at all times relevant hereto, routinely contained automatic transmission fluid, a regulated substance as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580-10 ("Tank 2").

- C. A 1,000 gallon tank that was installed on or about April 1, 1988 and that, at all times relevant hereto, routinely contained antifreeze, a regulated substance as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580-10 ("Tank 3").
- D. A 4,000 gallon tank that was installed on or about April 1, 1988 and that, at all times relevant hereto, routinely contained motor oil, a regulated substance as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580-10 ("Tank 4").
- E. A 1,000 gallon tank that was installed on or about April 1, 1988 and that, at all times relevant hereto, routinely contained automatic transmission fluid, a regulated substance as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580-10 ("Tank 5").
- F. A 1,000 gallon tank that was installed on or about April 1, 1988 and that, at all times relevant hereto, routinely contained antifreeze, a regulated substance as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580-10 ("Tank 6").
- G. An 8,000 gallon tank that was installed on or about April 1, 1988 and that, at all times relevant hereto, routinely contained gasoline, a regulated substance as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580-10 ("Tank 7").
- H. Two 15,000 gallon tanks that were installed on or about April 1, 1988 and that, at all times relevant hereto, routinely contained diesel fuel, a regulated substance as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580-10 ("Tank 8" and "Tank 9," respectively).
- I. Two 550 gallon tanks that were installed on or about April 1, 1988 and that, at all times relevant hereto, routinely contained waste oil, a regulated substance as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580-10 ("Tank 10" and "Tank 11," respectively).

16. At the time of the Norfolk CEI, and at all times relevant hereto, five (5) USTs, as described in the following subparagraphs, were located at the Norfolk Facility:

- A. Two 25,000 gallon tanks that were installed on or about 1999 and that, at all times relevant hereto, routinely contained diesel fuel, a regulated substance as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580-10 ("Tank 1" and "Tank 2").
- B. A 12,000 gallon tank that was installed on or about 1999 and that, at all

times relevant hereto, routinely contained diesel fuel, a regulated substance as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580-10 ("Tank 3").

- C. An 8,000 gallon tank that was installed on or about 1999 and that, at all times relevant hereto, routinely contained motor oil, a regulated substance as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580-10 ("Tank 4").
- E. An 8,000 gallon tank that was installed on or about 1999 and that, at all times relevant hereto, routinely contained automatic transmission fluid, a regulated substance as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580-10 ("Tank 5").

- 17. From April 1, 1998, until the date of this Consent Agreement, the USTs at the Hampton Facility have been petroleum UST systems or "hazardous substance UST systems" and existing tank systems as these terms are defined in 9 VAC 25-580-10.
- 18. From 1999, until the date of this Consent Agreement, the USTs at the Norfolk Facility have been petroleum UST systems and new tank systems as these terms are defined in 9 VAC 25-580-10.
- 19. The USTs at the Facilities are and were, at all times relevant to this CAFO, used to store regulated substance(s) at Respondent's Facilities, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7) and 9 VAC 25-580-10.

### COUNT I

#### **(Hampton Facility - Failure to Conduct Annual Line Leak Detector Tests)**

- 20. The allegations of Paragraphs 1 through 19, above, are incorporated herein by reference as though fully set forth.
- 21. 9 VAC 25-580-140(2)(a)(1) and (2) require underground piping that routinely contains regulated substances and conveys regulated substances under pressure to be equipped with an automatic line leak detector conducted in accordance with subdivision 1 of 9 VAC 25-580-170 and to have an annual line tightness test conducted in accordance with subdivision 2 of 9 VAC 25-580-170 or have monthly monitoring conducted in accordance with subdivision 3 of 9 VAC 25-580-170.
- 22. 9 VAC 25-580-170(1) provides that facilities using automatic line leak detectors for pressurized piping that regularly conveys regulated substances must conduct an annual test of the automatic line detectors in accordance with the manufacturer's requirements.
- 23. The underground piping associated with Tanks 7, 8, and 9 at the Hampton Facility is and, at

the time of the relevant violations alleged herein, was pressurized piping that routinely contained regulated substances and conveyed such regulated substances under pressure.

24. Respondent did not conduct an annual test of the automatic line leak detector in accordance with 9 VAC 25-580-170(1) for Tank 7 in calendar years 2005, 2006, 2007, 2008 and 2009.
25. Respondent did not conduct an annual test of the automatic line leak detector conducted in accordance with of 9 VAC 25-580-170(1) for Tanks 8 and 9 in calendar years 2006, 2007, 2008 and 2009.
26. Respondent violated 9 VAC 25-580-140(2)(a)(1) by failing to conduct annual tests of the line leak detectors for Tanks 7, 8 and 9 as described in paragraphs 24 and 25, above.

### **COUNT II**

#### **(Hampton Facility - Failure to Conduct Annual Line Tightness Testing)**

27. The allegations of Paragraphs 1 through 26, above, are incorporated herein by reference as though fully set forth.
28. 9 VAC 25-580-140(2)(a)(2) provides that pressurized piping that routinely contains regulated substances and conveys regulated substances under pressure must have an annual line tightness test conducted in accordance with subdivision 2 of 9 VAC 25-580-170, or have monthly monitoring conducted in accordance with subdivision 3 of 9 VAC 25-580-170.
29. Respondent did not conduct an annual line tightness test or perform monthly monitoring of the pressurized piping that conveys regulated substances associated with Tank 7 at the Hampton Facility during the time period October 26, 2005 – April 26, 2007 and April 26, 2008 – March 1, 2010 as required by 9 VAC 25-580-140(2)(a)(2).
30. Respondent did not conduct an annual line tightness test or perform monthly monitoring of the pressurized piping that conveys regulated substances associated with Tanks 8 and 9 at the Hampton Facility during the time periods September 28, 2006 – April 26, 2007 and April 26, 2008 – March 1, 2010 as required by 9 VAC 25-580-140(2)(a)(2).
31. Respondent violated 9 VAC 25-580-140(2)(a)(2) by failing to conduct annual line tightness tests of, or perform monthly monitoring on, the pressurized piping that conveys regulated substances associated with Tanks 7, 8 and 9 as described in Paragraphs 29 and 30, above.

### **COUNT III**

#### **(Hampton Facility - Failure to Provide Corrosion Protection)**

32. The allegations of Paragraphs 1 through 31, above, are incorporated herein by reference as though fully set forth.

33. 9 VAC 25-580-50(2) requires, in pertinent part, piping that routinely contains regulated substances and is in contact with the ground to be properly designed, constructed and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified in 9 VAC 25-580-50(2), and, if the piping is constructed from steel, cathodically protected in the manner specified in 9 VAC 25-580-50(2)(b)(1) - (4) .
34. At all times relevant to the violations alleged herein, the piping associated with Tanks 1 – 6 at the Hampton Facility routinely contained regulated substances and was in contact with the ground.
35. At all times relevant to the violations alleged herein, the piping associated with Tanks 1 – 6 at the Hampton Facility was constructed from galvanized steel.
36. From January 1, 2005 through July 1, 2009, the galvanized steel piping that routinely contained regulated substances and was in contact with the ground that was associated with Tanks 1 – 6 at the Hampton Facility did not have corrosion protection as required by 9 VAC 25-580-50(2)(b)(1) - (4).
37. Respondent violated 9 VAC 25-580-50(2)(b)(1) - (4) by failing to provide corrosion protection for the galvanized steel piping that routinely contained regulated substances and was in contact with the ground that was associated with Tanks 1 – 6 at the Hampton Facility.

#### **COUNT IV**

##### **(Hampton Facility - Failure to Maintain Release Detection Records)**

38. The allegations of Paragraphs 1 through 37, above, are incorporated herein by reference as though fully set forth.
39. 9 VAC 25-580-180(2) requires, in pertinent part, that all UST system owners and operators maintain, in accordance with 9 VAC 25-580-120, records of the results of any sampling, testing or monitoring demonstrating compliance with release detection requirements for at least one year. 9 VAC 25-580-120 requires that such records be kept either at the UST site or at a readily available alternative site.
40. Respondent did not maintain the November and December 2007 monthly release detection testing results for Tank 10 at the Hampton Facility or a readily available alternative site.
41. Respondent did not maintain the November 2007 monthly release detection testing result for Tank 11 located at the Hampton Facility or a readily available alternative site.
42. Respondent violated 9 VAC 25-580-180(2) by failing to maintain release detection records

for one year for Tanks 10 and 11 located at the Hampton Facility or a readily available alternative site.

#### **COUNT V**

##### **(Norfolk Facility - Failure to Maintain Release Detection Records)**

43. The allegations of Paragraphs 1 through 42, above, are incorporated herein by reference as though fully set forth.
44. Respondent did not maintain the September 2006 through May 2008 release detection records for Tanks 1, 2, 3, and 5 at the Norfolk Facility or a readily available alternative site.
45. Respondent violated 9 VAC 25-580-180(2) by failing to maintain the September 2006 through May 2008 release detection records for one year for Tanks 1, 2, 3, and 5 at the Norfolk Facility or a readily available alternative site from.

#### **COUNT VI**

##### **(Norfolk Facility - Failure to Investigate a Suspect Release)**

46. The allegations of Paragraphs 1 through 45, above, are incorporated herein by reference as though fully set forth.
47. 9 VAC 25 -580 190(3) requires owners and operators of UST systems to report to the Virginia State Water Control Board within 24 hours and follow the procedures in 9 VAC 25-580-210 when monitoring results from a release detection method required under 9 VAC 25-580-140 and 9 VAC 25-580-150 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.
48. Respondent used release detection methods, i.e., automatic tank gauging and interstitial monitoring, as required under 9 VAC 25-580-140 and 9 VAC 25-580-150 for, *inter alia* Tank 4, at the Norfolk Facility.
49. At the time of the Norfolk CEI, the release detection monitoring system for Tank 4 at the Norfolk Facility indicated a "fuel alarm," indicating a potential release.
50. No circumstance listed in 9 VAC 25-580-190(3)(a) and (b) occurred in connection with the suspected release referred to in this Count, and no corrective action was initiated in accordance with 9 VAC 25-580-230.
51. Respondent did not investigate the cause of the fuel alarm within seven days as required by 9 VAC 25-580-210.
52. Respondent did not make a written request to the Board for another reasonable period of



time in which to investigate the cause of the fuel alarm as provided by 9 VAC 25-580-210.

53. Respondent violated 9 VAC 25-580-190(3) by failing to timely investigate the suspected release indicated by the fuel alarm on Tank 4 at the Norfolk Facility.

### **COUNT VII**

#### **(Norfolk Facility - Failure to Report a Suspected Release)**

54. The allegations of Paragraphs 1 through 54, above, are incorporated herein by reference as though fully set forth.
55. 9 VAC 25-580-210 provides that unless corrective action is initiated in accordance with Part VI (9 VAC 25-580-230 *et seq.*) owners and operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under 9 VAC 25-580-190 within seven days, or another reasonable time period specified by the Board on written request made and approved within seven days after reporting of the suspected release.
56. Respondent did not report the suspected release described in Count VI, above, to the Virginia State Water Control Board.
57. Respondent violated 9 VAC 25-580-190(3) by failing to report the suspected release described in Count VI, above, to the Virginia State Water Control Board.

### **III. COMPLIANCE ORDER**

Pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, Respondent is hereby ordered to complete the following Compliance Tasks. Respondent shall submit to EPA a certification in the form set forth in Paragraph 60 that the Compliance Order has been implemented, the tasks completed, and Respondent is currently in compliance with RCRA Subtitle I and 9 VAC Chapter 25, subchapter 580 in accordance with the following schedule:

58. Within 180 (one hundred eighty) days after the Effective date of this CAFO, submit documentation to EPA pursuant to Paragraph 61, below, for the removal of the steel piping from Tanks 1 – 6 at the Hampton Facility and replacement with piping in accordance with the upgrade requirements set forth in 9 VAC 25-580-50(2). Such documentation shall include a detailed summary of the cost of the pipe removal and the final engineering report.
59. Comply with the requirements of the Virginia Department of Environmental Quality ("VADEQ") as directed by VADEQ pursuant to 9 VAC 25 - 580 - 230 *et seq.*
60. Submissions to EPA: Any notice, certification, data presentation, or other document submitted by a Respondent pursuant to this Consent Agreement which discusses, describes, demonstrates, or supports any finding or makes any representation concerning

Respondent's compliance or noncompliance with any requirements of this Consent Agreement shall be certified, by a responsible corporate officer as that term is defined at 40 C.F.R. § 270.11. The aforesaid certification shall provide the following statement above the signature of the responsible person signing the certification on behalf of a Respondent:

I certify under penalty of law that this document and all attachments are 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: \_\_\_\_\_

Any notifications or submissions to EPA required by this Consent Agreement shall be sent to the attention of:

Melissa Toffel (3LC70)  
RCRA Enforcement and Compliance Officer  
Office of Land Enforcement  
United States Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

#### **IV. CIVIL PENALTIES**

61. Respondent shall pay a total civil penalty in the amount of **\$59,441**. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors provided in RCRA Section 9006(c) and (e), 42 U.S.C. §§ 6991e(c) and (e), and with EPA's Penalty Guidance for Violations of UST Regulations (UST Guidance dated November 4, 1990). Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO fully executed by all parties and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO, the civil penalty must be paid no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent.

62. Respondent shall remit the civil penalty and any interest, administrative fees, and late payment penalties, by cashier's check, certified check or electronic wire 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-03-2010-0033

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 to:

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

Contact: Eric Volck 513-487-2105

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

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101

Contact: 314-418-1028

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

Federal Reserve Bank of New York  
ABA = 021030004  
Account No. = 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:

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

Physical location of U.S. Treasury facility:

5700 Rivertech Court  
Riverdale, MD 20737  
Contact: John Schmid 202-874-7026 OR REX, 1-866-234-5681

- G. Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

At the time of payment, Respondent shall send a notice of such payment, including a copy of any check or electronic transfer, as appropriate, to:

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

and

Joyce A. Howell  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region III (Mail Code 3RC30)  
1650 Arch Street  
Philadelphia, PA 19103-2029

63. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.

64. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 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 as specified in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
65. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO 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. § 13.11(a).
66. 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. § 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. 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. § 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).

#### **V. RESERVATION OF RIGHTS**

67. 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 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 the Consolidated Rules of Practice at 40 C.F.R. § 22.18(c). Further, EPA reserves any rights or remedies available under RCRA, the regulations promulgated thereunder, and any other federal laws and regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

#### **VI. OTHER APPLICABLE LAWS**

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

**VII. PARTIES BOUND**

69. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and/or directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of each Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind such Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

**VIII. FULL AND FINAL SATISFACTION**

70. The settlement set forth in this Consent Agreement shall resolve only Respondent's liability for federal civil penalties for the specific violations of RCRA Subtitle I and the Commonwealth of Virginia Authorized UST Management Program alleged herein.

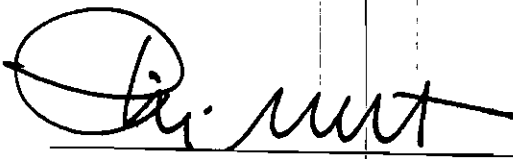
**IX. EFFECTIVE DATE**

71. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Judicial Officer or Regional Administrator.

[SIGNATURE PAGES BELOW]

For Respondent, Transportation District Commission of Hampton Roads:


Date July 22, 2010

By: 

Philip A. Shucet  
Chief Executive Officer

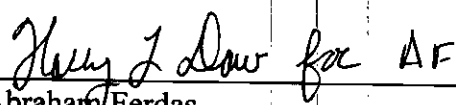
For Complainant, United States Environmental Protection Agency, Region III:

Date: 9/21/2010

By:   
Joyce A. Howell  
Senior Assistant Regional Counsel

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

Date: 9/21/2010

By:  for AF  
Abraham Ferdas  
Director  
Land and Chemicals Division

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

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**FACILITIES.**

**Docket No. RCRA-03-2010-0033**

**CERTIFICATE OF SERVICE**

I certify that on the date noted below, I send by UPS overnight delivery, a copy of the CONSENT AGREEMENT AND FINAL ORDER to the addressee listed below. The original and two copies of the same were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Sean M. Sullivan  
Williams Mullen  
A Professional Corporation  
301 Fayetteville Street, Suite 1700  
Raleigh, NC 27601

Dated September 27, 2010

  
Joyce A. Howell

BEFORE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
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FACILITIES.

Docket No. RCRA-03-2010-0033

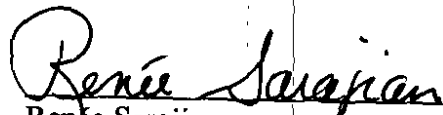
FINAL ORDER

Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, the Transportation District Commission of Hampton Roads, have executed a document entitled "Consent Agreement" which I hereby ratify 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 into this Final Order as if fully set forth at length herein.

NOW, THEREFORE, PURSUANT TO the Consolidated Rules of Practice, and based on the representations in the Consent Agreement, having determined that the penalty agreed to in the Consent Agreement is based on a consideration of the factors set forth in Section 9006(c) and (e) of RCRA, 42 U.S.C. § 6991e(c) and (e), it is hereby ordered that Respondent pay \$59,441.00 in accordance with the Consent Agreement and comply with the terms and conditions of this Consent Agreement.

The effective date of this Consent Agreement and Final Order is the date on which such Final Order is filed with the Regional Hearing Clerk.

9/27/10  
Date

  
Renee Sarajian  
Regional Judicial Officer