



**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. Further, nothing in this CA shall be construed as a determination by EPA that there has been any release of regulated substances from the UST located at the Facility
3. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the attached 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 the Respondent certifies to EPA 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, and the State of Delaware's UST Management Program regulations set forth at Delaware Administrative Code, Title 7, Department of Natural Resources and Environmental Control ("DNREC"), Division of Waste and Hazardous Substances, Tank Management Section at the Facility 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 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 Respondent to separate civil and/or criminal liability.

11. EPA has given the State of Delaware 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**

12. The United States Environmental Protection Agency - Region III ("EPA" or the "Region") has jurisdiction over this matter pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, and 40 C.F.R. § 22.1(a)(4).
13. Respondent is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and DRGUST, Part A, §2.
14. 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 DRGUST, Part A, §2, 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 DRGUST, Part A, §2, located at the Facility.
15. May 21, 2013, an EPA representative conducted a Compliance Evaluation Inspection ("CEI") at the Facility pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.
16. At the time of the May 21, 2013 CEI, and at all times relevant to the applicable violations alleged herein, the following USTs were located at the Facility:
  - (A) an eight thousand (8,000) gallon double wall fiberglass tank that was installed in or about February 1997, 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 DRGUST, Part A, §2 (hereinafter "UST No. 1");
  - (B) an eight thousand (8,000) gallon double wall fiberglass tank that was installed in or about February 1997, and that, at all times relevant hereto, routinely contained and was used to store premium gasoline fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and DRGUST, Part

A, §2 (hereinafter "UST No. 2"); and

(C) a fifteen thousand (15,000) gallon double wall fiberglass tank that was installed in or about February 1997, and that, at all times relevant hereto, routinely contained and was used to store regular gasoline fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and DRGUST, Part A, §2 (hereinafter "UST No. 3").

17. At all times relevant to the applicable violations alleged herein, UST Nos. 1-3 have each been a "petroleum UST system" and "new tank system" as those terms are defined in DRGUST, Part A, §2, respectively.
18. UST Nos. 1-3 were, at all times relevant to the applicable violations alleged in this CAFO, used to store a "regulated substance" at Respondent's Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and DRGUST, Part A, §2, and have not been "empty" as that term is defined at DRGUST, Part B, §3.01A.

### **COUNTS 1-3**

#### **(Failure to perform annual line leak detector testing)**

19. The allegations of Paragraphs 1 through 18 of the CA are incorporated herein by reference.
20. Pursuant to DRGUST, Part B, §1.07, owners and operators of new UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described therein.
21. DRGUST, Part B, § 1.09 provides, in pertinent part, that underground piping for petroleum USTs that routinely contains regulated substances must be monitored for releases. Each method of release detection for piping used to meet the requirements under this Section must be conducted in accordance with the following:

#### **A. Pressurized Piping**

(1) Underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector.

\* \* \*

(3) An annual test of the operation of the leak detector must be conducted in

accordance with the manufacturer's specifications.

22. Respondent conducted a testing of the automatic line leak detectors for the piping associated with UST Nos. 1 and 3 only on: July 8, 2009, July 6, 2010, July 15, 2011 and May 16, 2013.
23. Respondent conducted a testing of the automatic line leak detector for the piping associated with UST No. 2 only on: July 8, 2009, July 6, 2010, August 30, 2011 and May 16, 2013.
24. From July 15, 2012 through May 16, 2013, the piping for UST Nos. 1 and 3 were underground and routinely conveyed regulated substances under pressure.
25. From August 30, 2012 through May 16, 2013, the piping for UST No. 2 was underground and routinely conveyed regulated substances under pressure.
26. Respondent failed to perform an annual test of the automatic line leak detectors for the underground piping for UST Nos. 1 and 3 from July 15, 2012 through May 15, 2013.
27. Respondent failed to perform an annual test of the automatic line leak detectors for the underground piping for UST No. 2 from August 30, 2012 through May 15, 2013.
28. COUNT 1: Respondent's failure to perform an annual test of the automatic line leak detectors for the underground piping for UST No. 1 as alleged in Paragraph 26, above, constitutes a violation by Respondent of DRGUST, Part B, §1.09A(3).
29. COUNT 2: Respondent's failure to perform an annual test of the automatic line leak detectors for the underground piping for UST No. 2 as alleged in Paragraph 27, above, constitutes a violation by Respondent of DRGUST, Part B, §1.09A(3).
30. COUNT 3: Respondent's failure to perform an annual test of the automatic line leak detectors for the underground piping for UST No. 3 as alleged in Paragraph 26, above, constitutes a violation by Respondent of DRGUST, Part B, §1.09A(3).

#### **CIVIL PENALTY**

31. 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 **Five Thousand Dollars (\$5,000.00)**. The civil penalty amount is due and payable immediately upon Respondent's receipt of a true and correct copy of this CA and attached FO. If

Respondent pays the entire civil penalty of \$5,000.00 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).

32. Respondent has asserted that he will not be able to pay the civil penalty amount in full within thirty (30) calendar days of the date on which this CAFO is mailed or hand-delivered. As a result, it is the understanding of the Parties that Respondents will pay the civil penalty in 11 monthly installments and will pay interest at the rate of 1% per annum on the outstanding principal balance according to the following schedule:

1<sup>st</sup> payment is due within 30 days of the date on which the CAFO is mailed to the Respondents = \$500.00;

2<sup>nd</sup> payment is due within 60 days of the date on which the CAFO is mailed to the Respondents = \$455.98;

3<sup>rd</sup> payment is due within 90 days of the date on which the CAFO is mailed to the Respondents = \$452.10;

4<sup>th</sup> payment is due within 120 days of the date on which the CAFO is mailed to the Respondents = \$452.10;

5<sup>th</sup> payment is due within 150 days of the date on which the CAFO is mailed to the Respondents = \$452.10;

6<sup>th</sup> payment is due within 180 days of the date on which the CAFO is mailed to the Respondents = \$452.10;

7<sup>th</sup> payment is due within 210 days of the date on which the CAFO is mailed to the Respondents = \$452.10;

8<sup>th</sup> payment is due within 240 days of the date on which the CAFO is mailed to the Respondents = \$452.10;

9<sup>th</sup> payment is due within 270 days of the date on which the CAFO is mailed to the Respondents = \$452.10;

10<sup>th</sup> payment is due within 300 days of the date on which the CAFO is mailed to the Respondents = \$452.10; and

11<sup>th</sup> payment is due within 330 days of the date on which the CAFO is mailed to the Respondents = \$452.10;

Under this proposed repayment schedule, Respondents will pay the civil penalty of \$5,000.00 plus interest of \$24.88 as further outlined in the chart below:

Payment	Principal	Interest	Payment Amount
1	\$500.00	\$0.00	\$500.00
2	\$448.35	\$7.63	\$455.98
3	\$448.61	\$3.49	\$452.10
4	\$449.10	\$3.00	\$452.10
5	\$449.38	\$2.72	\$452.10
6	\$449.77	\$2.33	\$452.10
7	\$450.35	\$1.75	\$452.10
8	\$450.55	\$1.55	\$452.10
9	\$450.97	\$1.13	\$452.10
10	\$451.32	\$0.78	\$452.10
11	\$451.60	\$0.50	\$452.10
<b>Total:</b>	<b>\$5,000.00</b>	<b>\$24.88</b>	<b>\$5,024.88</b>

33. 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.
34. 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).
35. 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.

36. 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).
37. 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.
38. Respondent shall pay the amount described in Paragraph 31 or 32 above, by sending a certified or cashier's check payable as follows:
- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, **RCRA-03-2014-0249**;
  - 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. EPA - Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

Contact: Eric Volck, 513-487-2105 or  
Craig Steffen 513-487-2091

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

U.S. EPA - Fines and Penalties  
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 on banks with no USA branches shall be addressed for delivery to:

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

39. Respondent may also pay the amount described in Paragraph 31 and 32, above, electronically or on-line as follows:

- a. 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 wire transfer message should read:  
"D 68010727 Environmental Protection Agency")

- b. 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  
Environmental Protection Agency, Account No. 310006  
CTX Format Transaction Code 22 - checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Contact: Jessie White 301-887-6548 or

REX 1-866-234-5681

- c. On-Line Payment Option:

[www.pay.gov/paygov](http://www.pay.gov/paygov)

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

- d. 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)

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

Donzetta Thomas (3RC50)  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.

**FULL AND FINAL SATISFACTION**

40. 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**

41. 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**

42. 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**

43. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this CA and bind Respondent hereto.

**ENTIRE AGREEMENT**

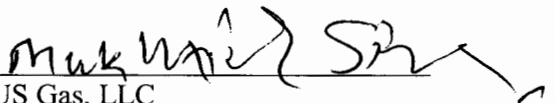
44. This CA and the attached FO constitute the entire Agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CA and the attached FO.

**EFFECTIVE DATE**

45. This CA and attached FO shall become effective upon filing with the Regional Hearing Clerk.


**For Respondent:**

8/9/14  
Date

  
US Gas, LLC  
Mukhitar Singh, Owner

**For Complainant:**

8/15/14  
Date

  
Donzetta W. Thomas (3RC50)  
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.

By: Catherine A. Juby for 8-20-14  
John Armstead, Director  
Land and Chemicals Division,  
U.S. EPA, Region III

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

In the Matter of:	)	
	)	
US Gas, LLC	)	Docket Number: RCRA-3-2014-0249
461 North Dupont Highway	)	
Dover, DE 19901	)	Proceeding Under Section 9006 of the
	)	Resource Conservation and Recovery Act,
	)	as amended, 42 U.S.C. § 6991e.
RESPONDENT	)	

**FINAL ORDER**


Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, US Gas, LLC, 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 of \$5,000.00 agreed to therein was based upon a consideration of the factors set forth in Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **Five Thousand Dollars (\$5,000.00)** in accordance with the payment provisions set forth in the attached Consent

Agreement, including payment of any applicable interest, 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 CAFO is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date: 9-22-14

  
\_\_\_\_\_  
Heather Gray  
Regional Judicial Officer  
U.S. EPA, Region III

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CERTIFICATE OF SERVICE

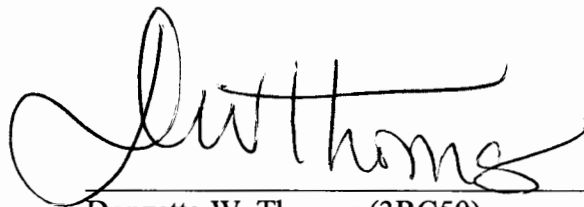
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I hereby certify that, on the date listed below, the original and one copy of the foregoing Consent Agreement and Final Order, Docket No. RCRA-03-2014-0249 was filed with the EPA Region III Regional Hearing Clerk, and that a correct copy of the same was sent in the following manner to the person listed below:

Via United Parcel Service to:

Carolyn H. deBernard, Esquire  
Law Firm of Bonnie M. Benson, PA  
306 E. Camden-Wyoming Avenue  
Camden, DE 19934

9/22/14  
Date



Donzetta W. Thomas (3RC50)  
Counsel for Complainant  
U.S. Environmental Protection Agency, Region III  
(215) 814-2474