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

In the Matter of:	)	
	)	
DAG Petroleum Suppliers, LLC	)	
6820-B Commercial Drive	)	U.S. EPA Docket Number
Springfield, Virginia 22151,	)	RCRA-03-2008-0180
	)	
and	)	Consent Agreement
	)	
DAG Realty, LLC	)	
6820-B Commercial Drive	)	
Springfield, Virginia 22151,	)	

RESPONDENTS

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is filed pursuant to Section 9006 of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as "RCRA"), 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. The Complainant is the Director, Waste and Chemicals Management Division, United States Environmental Protection Agency, Region III ("Complainant").

2. Pursuant to Section 22.13(b) of the Consolidated Rules, this Consent Agreement and the attached Final Order ("CAFO") both commence and conclude an administrative proceeding against DAG Petroleum Suppliers, LLC and DAG Realty, LLC ("Respondents"), brought under Section 9006 of RCRA, 42 U.S.C. § 6991*e*, to resolve alleged violations of Subtitle I of RCRA at ten of Respondents' facilities in Maryland and the District of Columbia, as specified in more detail below.

3. Effective May 4, 1998, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991*c*, and 40 C.F.R. Part 281, Subpart A, the District of Columbia was granted final authorization to administer a state underground storage tank management program ("District of Columbia Authorized UST Management Program") *in lieu* of the Federal underground storage tank management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991*m*. Effective June 30, 1992, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991*c*, and 40 C.F.R. Part 281, Subpart A, the State of Maryland was granted final authorization to administer a state UST management program ("Maryland Authorized UST Management Program") *in lieu* of the Federal underground storage tank management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991*m*. Through these final authorizations the provisions of the District of Columbia and Maryland Authorized UST Management Programs became requirements of RCRA Subtitle I and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991*e*.

4. The factual allegations and legal conclusions in this Consent Agreement are based upon the provisions of the District of Columbia Authorized UST Management Program, set forth in District of Columbia Municipal Regulations, Title 20, Chapters 55 *et seq.*, and the Maryland Authorized UST Management Program, set forth in Sections 26.10.02 *et seq.* of the Maryland Department of the Environment ("MDE") Code of Maryland Regulations. These provisions will be cited hereinafter as 20 DCMR §§ 5500 *et seq.* and COMAR §§ 26.10.02 *et seq.*, respectively.

5. EPA has given the District of Columbia, through the District of Columbia Department of the Environment ("DCDOE"), and the State of Maryland, through the Maryland Department of the Environment ("MDE"), prior notice of the issuance of this CAFO in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991*e*(a)(2).

6. This Consent Agreement is entered into by Complainant and Respondents to resolve EPA's claims for civil penalties based upon the violations alleged in the Findings of Fact, as set forth below.

7. For the purposes of this proceeding, Respondents admit the jurisdictional allegations of this Consent Agreement.

8. Respondents neither admit nor deny the Findings of Fact contained in this Consent Agreement, except as provided in Paragraph 7, above.

9. Respondents neither admit nor deny the Conclusions of Law contained in this Consent Agreement, except as provided in Paragraph 7, above.

10. For the purposes of this proceeding only, each Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in the Findings of Fact and Conclusions of Law, and any right to appeal the accompanying Final Order.

11. The settlement agreed to by the parties in this Consent Agreement reflects the desire of the parties to resolve this matter without continued litigation.

12. Respondents consent to the issuance of this Consent Agreement and to the attached Final Order and agree to comply with their terms. Respondents agree not to contest Complainant's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement thereof.

13. This Consent Agreement and Final Order resolve only EPA's claims for civil penalties for the specific violations alleged in the Findings of Fact and Conclusions of Law, below. EPA reserves the right to commence action against any person, including Respondents, 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.

14. 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 Consent Agreement and Final Order, following its filing with the Regional Hearing Clerk. Respondents reserve all available rights and defenses they may have to defend themselves in any such action.

15. Nothing in this Consent Agreement and Final Order shall alter or otherwise affect each Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations.

16. Respondents are aware that the submission of false or misleading information to the United States government may subject Respondents to separate civil and/or criminal liability. Complainant reserves the right to seek and obtain appropriate relief if Complainant obtains evidence that the information provided and/or representations made by either Respondent to Complainant regarding the matters at issue in the Findings of Fact and Conclusions of Law are false or, in any material respect, inaccurate.

17. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

18. This section represents the Findings of Fact and Conclusions of Law made by Complainant in this matter. As set forth in Paragraphs 8 and 9 above, Respondents neither admit nor deny these Findings of Fact and Conclusions of Law, but agree to this settlement to avoid further litigation, as set forth in Paragraph 11, above.

19. Each Respondent is a "person" as defined in Section 9001 of RCRA, 42 U.S.C. § 6991, 20 DCMR § 6899.1. and COMAR § 26.10.02.04.B(40).

20. Respondents are, and, at all times relevant to the violations alleged in this Consent Agreement, were each an "owner" and/or "operator," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, 20 DCMR § 6899.1 and COMAR § 26.10.02.04.B(37) and (39), of "underground storage tanks" ("USTs") and "UST systems" as those terms are defined in Section

9001 of RCRA, 42 U.S.C. § 6991, 20 DCMR § 6899.1 and COMAR § 26.10.02.04.B(64) and (66), located at number of different facilities in the District of Columbia and Maryland, including the specific facilities set forth below.

COUNT 1 – 1024 Pennsylvania Avenue

21. From at least August 1, 2003 until August 31, 2005, Respondents were each an "owner" and/or "operator," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, of a number of "USTs" and "UST systems," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, located at the Shell Gas Station at 1024 Pennsylvania Avenue, S.E., in Washington, D.C. (the "Pennsylvania Avenue Facility"), including the specific USTs at issue in this matter, consisting of the following:

a. A 10,000-gallon UST ("Tank PA-1) containing regular gasoline;

b. A 10,000-gallon UST ("Tank PA-2) containing regular gasoline; and

b. A 550-gallon UST ("Tank PA-5") containing used motor oil.

22. At all times relevant to the violations set forth in this Count, until such tanks were removed on or about August 31, 2005, Tanks PA-1 and PA-2 were each used to store gasoline, which is a petroleum product and is a "regulated substance" as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991 and 20 DCMR § 6899.1.

23. At all times relevant to the violations set forth in this Count, until such tank was removed on or about August 31, 2005, Tank PA-5 was used to store used motor oil, which is a petroleum product and is a "regulated substance" as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991 and 20 DCMR § 6899.1.

24. At all times relevant to the violations set forth in this Count, until such tanks were removed on or about August 31, 2005, Tanks PA-1, PA-2 and PA-5 were each part of a "petroleum UST system" as that term is defined in 20 DCMR § 6899.1.

25. Pursuant to 20 DCMR § 6000, owners and operators of new and existing USTs and UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described in those sections. Pursuant to 20 DCMR § 6100.5, release detection is required unless the UST system is "empty," which is defined in 20 DCMR § 6100.7(a) as when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters or one inch of residue, or 0.3 percent by weight of the total capacity remains in the system.

26. At all times relevant to the violations set forth in this Count, Tanks PA-1, PA-2 and PA-5 routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus were not "empty" as defined in 20 DCMR § 6100.7(a).

27. Pursuant to 20 DCMR §§ 6003.2 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 in certain circumstances not here relevant.

28. From at least August 1, 2003 until such tanks were removed on or about August 31, 2005, Tanks PA-1 and PA-2 were not monitored in compliance with any of the methods set forth in 20 DCMR §§ 6005 through 6007 and 6009 through 6012.

29. From at least August 1, 2003 until it was removed on or about August 31, 2005, Tank PA-5 was not monitored in compliance with any of the methods set forth in 20 DCMR §§ 6005 through 6012.

30. An automatic tank gauging system ("ATG system") was present at the Pennsylvania Avenue Facility prior to the removal of Tanks PA-1, PA-2. This ATG system, if properly programmed and operated, appears to have been capable of performing "in-tank" testing on Tanks PA-1 and PA-2 which could have complied with the requirements of 20 DCMR § 6008. However, at various times between August 1, 2003 and August 31, 2005, this ATG system was not programmed and operated such that it generated valid tank release detection monitoring results at least every 30 days.

31. From August 1, 2003 through September 30, 2003, from June 1, 2004 through September 30, 2004 and from July 1, 2005 through August 31, 2005, Respondent failed to obtain a valid "in-tank" ATG test result for Tanks PA-1 and PA-2.

32. From August 1, 2003 through September 30, 2003, from June 1, 2004 through September 30, 2004 and from July 1, 2005 through August 31, 2005, Respondents violated 20 DCMR §§ 6000 and 6003 by failing to provide a method or methods of tank release detection for the UST systems designated as Tanks PA-1 and PA-2 at the Pennsylvania Avenue Facility which met the requirements referenced in such regulations.

33. From August 1, 2003 through August 31, 2005, Respondents violated 20 DCMR §§ 6000 and 6003 by failing to provide a method or methods of tank release detection for the UST system

designated as Tank PA-5 at the Pennsylvania Avenue Facility which meets the requirements referenced in such regulations.

COUNT 2 – 1830 Rhode Island Avenue

34. From August 1, 2003 to the present, Respondents have each been an "owner" and/or "operator," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, of a number of "USTs" and "UST systems," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, located at the Shell Gas Station at 1830 Rhode Island Avenue, N.E., in Washington, D.C. (the "Rhode Island Avenue Facility"), including the specific USTs at issue in this matter, consisting of the following:

a. A 10,000-gallon UST ("Tank RI-1") containing regular gasoline;

b. A 10,000-gallon UST ("Tank RI-2") containing mid-grade gasoline; and

c. A 10,000-gallon UST ("Tank RI-3") containing premium gasoline.

35. At all times relevant to the violations set forth in this Count, Tanks RI-1, RI-2 and RI-3 were each used to store gasoline, which is a petroleum product and is a "regulated substance" as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991 and 20 DCMR § 6899.1.

36. At all times relevant to the violations set forth in this Count, Tanks RI-1, RI-2 and RI-3 were each part of a "petroleum UST system" as that term is defined in 20 DCMR § 6899.1.

37. At all times relevant to the violations set forth in this Count, Tanks RI-1, RI-2 and RI-3 routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus were not "empty" as defined in 20 DCMR § 6100.7(a).

38. From August 1, 2003 until at least January 31, 2005, Tanks RI-1, RI-2 and RI-3 were not monitored in compliance with any of the methods set forth in 20 DCMR §§ 6005 through 6007 and 6009 through 6012.

39. An ATG system has been present at the Rhode Island Avenue Facility since prior to August 1, 2003. This ATG system, if properly programmed and operated, appears to have been capable of performing "in-tank" testing on Tanks RI-1, RI-2 and RI-3 which could have complied with the requirements of 20 DCMR § 6008. However, until February 1, 2005, this ATG system was not programmed and operated such that it generated valid tank release detection monitoring results at least every 30 days.

40. From August 1, 2003 until February 1, 2005, Respondents failed to obtain a valid "in-tank" ATG test result for Tanks RI-1, RI-2 and RI-3.

41. From August 1, 2003 and until February 1, 2005, Respondents violated 20 DCMR §§ 6000 and 6003 by failing to provide a method or methods of tank release detection for the UST systems designated as Tanks RI-1, RI-2 and RI-3 at the Rhode Island Avenue Facility which meets the requirements referenced in such regulations.

COUNT 3 – 1830 Rhode Island Avenue

42. Pursuant to 20 DCMR § 6004.2, underground piping which is part of a petroleum UST system and conveys regulated substances under pressure must be equipped with an automatic line leak detector, in accordance with 20 DCMR § 6013.2. Pursuant to 20 DCMR § 6013.2, the operation of the automatic line leak detector must be tested annually in accordance with the manufacturer's instructions.

43. From at least August 1, 2003 until at least January 23, 2006, the underground piping associated with Tanks RI-1, RI-2 and RI-3 at the Rhode Island Avenue Facility contained regulated substances and conveyed regulated substances under pressure.

44. Line leak detector tests on the underground piping associated with Tanks RI-1, RI-2 and RI-3 at the Rhode Island Avenue Facility were not conducted prior to January 23, 2006.

45. From at least August 1, 2003 until January 23, 2006, Respondents violated 20 DCMR §§ 6004.2, and 6013.2 by failing to test the line leak detectors for the underground piping associated with Tanks RI-1, RI-2 and RI-3 at the Rhode Island Avenue Facility.

COUNT 4 – 5900 Seat Pleasant Drive

46. From at least August 1, 2003 to the present, Respondents have each been an "owner" and/or "operator," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(37) and (39), of a number of "USTs" and "UST systems," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(64) and (66), located at the Texaco Gas Station at 5900 Seat Pleasant Drive in Seat Pleasant, Maryland (the "Seat Pleasant Drive Facility"), including the specific USTs at issue in this matter, consisting of the following:

a. A 12,000-gallon UST ("Tank SP-1") containing regular gasoline; and

b. A 12,000-gallon UST ("Tank SP-2") containing premium gasoline.

47. At all times relevant to the violations set forth in this Count, Tanks SP-1 and SP-2 were each used to store gasoline, which is a petroleum product and is a "regulated substance" as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(48).

48. At all times relevant to the violations set forth in this Count, Tanks SP-1 and SP-2 were each part of a "petroleum UST system" as that term is defined in COMAR § 26.10.02.04.B(43).

49. Pursuant to COMAR § 26.10.05.01, owners and operators of new and existing USTs and UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described in that section. Pursuant to COMAR § 26.10.10.01.A, release detection is required unless the UST system is "empty," which is defined in COMAR § 26.10.10.01.A as when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters or one inch of residue, or 0.3 percent by weight of the total capacity remains in the system.

50. At all times relevant to the violations set forth in this Count, Tanks SP-1 and SP-2 routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus were not "empty" as defined in COMAR § 26.10.10.01.A.

51. Pursuant to COMAR § 26.10.05.02.B, 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 COMAR § 26.10.05.04.E through I, except in certain circumstances not here relevant.

52. From at least August 1, 2003 to June 1, 2006, Tank SP-1 was not monitored in compliance with any of the methods set forth in COMAR § 26.10.05.04.B through D or F through I, except that a tank tightness test was conducted in February, 2005.

53. From at least August 1, 2003 to March 1, 2006, Tank SP-2 was not monitored in compliance with any of the methods set forth in COMAR § 26.10.05.04.B through D or F through 1, except that a tank tightness test was conducted in February, 2005.

54. An ATG system has been present at the Seat Pleasant Drive Facility since prior to August 1, 2003. This ATG system, if properly programmed and operated, appears to have been capable of performing "in-tank" testing on Tanks SP-1 and SP-2 which could have complied with the requirements of COMAR § 26.10.05.04.E. However, this ATG system was not programmed and operated such that it generated valid tank release detection monitoring results at least every 30 until June 1, 2006 (for Tank SP-1) and March 1, 2006 (for Tank SP-2).

55. From August 1, 2003 until June 1, 2006, Respondents failed to obtain a valid "in-tank" ATG test result for Tank SP-1.

56. From August 1, 2003 until March 1, 2006, Respondents failed to obtain a valid "in-tank" ATG test result for Tanks SP-2.

57. From August 1, 2003 until February 1, 2005 and from March 1, 2005 until June 1, 2006, Respondents violated COMAR §§ 26.10.05.01 and 26.10.05.02.B by failing to provide a method or methods of tank release detection for the UST system designated as Tank SP-1 at the Seat Pleasant Drive Facility which meets the requirements referenced in such regulations.

58. From August 1, 2003 until February 1, 2005 and from March 1, 2005 until March 1, 2006, Respondents violated COMAR §§ 26.10.05.01 and 26.10.05.02.B by failing to provide a method or methods of tank release detection for the UST system designated as Tank SP-2 at the Seat Pleasant Drive Facility which meets the requirements referenced in such regulations.

COUNT 5 – 1765 New York Avenue

59. From August 1, 2003 to the present, Respondents have each been an "owner" and/or "operator," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20

DCMR § 6899.1, of a number of "USTs" and "UST systems," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, located at the Texaco Gas Station at 1765 New York Avenue, N.E., in Washington, D.C. (the "New York Avenue Facility"), including the specific USTs at issue in this matter, consisting of the following:

a. A 12,000-gallon UST ("Tank NY-1") containing premium gasoline;

b. A 10,000-gallon UST ("Tank NY-2") containing mid-grade gasoline;

c. A 10,000-gallon UST ("Tank NY-3") containing regular gasoline; and

d. A 10,000-gallon UST ("Tank NY-4") containing diesel fuel.

60. At all times relevant to the violations set forth in this Count, Tanks NY-1, NY-2 and NY-3 were each used to store gasoline, which is a petroleum product and is a "regulated substance" as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991 and 20 DCMR § 6899.1.

61. At all times relevant to the violations set forth in this Count, Tank NY-4 was used to store diesel fuel, which is a petroleum product and is a "regulated substance" as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991 and 20 DCMR § 6899.1.

62. At all times relevant to the violations set forth in this Count, Tanks NY-1, NY-2, NY-3 and NY-4 were each part of a "petroleum UST system" as that term is defined in 20 DCMR § 6899.1.

63. At all times relevant to the violations set forth in this Count, Tanks NY-1, NY-2, NY-3 and NY-4 routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus were not "empty" as defined in 20 DCMR § 6100.7(a).

64. Pursuant to 20 DCMR §§ 5602.4 and 6001.1, each UST owner or operator is required to maintain certain records, including, in relevant part, records of recent compliance with release detection requirements. 20 DCMR §§ 5602.4(c) and 6001.3. Pursuant to 20 DCMR § 6001.3, such records must be maintained for at least three years, with exceptions not here relevant. Pursuant to 20 DCMR § 5602.5, such records must be kept at the UST site and immediately available for inspection.

65. Pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991*d*(a), an owner or operator of an UST must, upon request by any duly designated representative of EPA, furnish, in relevant part, information and records with regard to such UST. Pursuant to 20 DCMR § 5602.1, owners and operators shall, in relevant part, cooperate fully with requests for document submission pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991*d*.

66. On March 30, 2005, an EPA inspector conducted an inspection of the New York Avenue Facility. As of the date of this inspection, no tank release detection records for Tanks NY-1, NY-2, NY-3 and NY-4 were available for inspection at the New York Avenue Facility.

67. On August 1, 2006, EPA sent a letter to Respondents requiring Respondents to provide information and documentation pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991*d*(a), including, in relevant part, copies of all records or other documentation of tank release detection at a number of Respondents' Facilities, including the New York Avenue Facility, for the prior three years.

68. In response to EPA's August 1, 2006, information request, Respondents sent to EPA two boxes of documents responsive to the information request, received by EPA on November 28,

2006. The documentation produced at this time did not include tank release detection documentation for the New York Avenue Facility for the period prior to April, 2006, except for documentation of tank tightness tests on Tanks NY-1, NY-2 and NY-3 in September, 2003. In addition, Respondent's November 28, 2006 documentation did not include any tank release detection documentation for the New York Avenue Facility for June or July, 2006.

69. During a meeting with EPA on July 19, 2007, Respondents provided additional tank release detection documentation for Tanks NY-1, NY-2, NY-3 and NY-4 for the periods from August, 2003 to November, 2003 and from October, 2004 to March 2006, which had not been provided to EPA in response to EPA's August 1, 2006 information request. Other than the records produced to EPA, as described in this Paragraph and Paragraph 68, above, Respondents did not maintain records for tank release detection for these tanks for the period prior to April, 2006.

70. From December, 2003 through the date of this Consent Agreement, Respondents violated 20 DCMR §§ 5602.4, 5602.5, 6001.1 and 6001.3 by failing to maintain records of compliance with release detection requirements for Tanks NY-1, NY-2, NY-3 and NY-4, as required by those Sections, for tank release detection occurring during the periods from December, 2003 through September, 2004 and from June, 2006 through July, 2006.

COUNT 6 – 3830 Minnesota Avenue

71. From August 1, 2003 to the present, Respondents have each been an "owner" and/or "operator," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, of a number of "USTs" and "UST systems," as those terms are defined in

Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, located at the Shell Gas Station at 3830 Minnesota Avenue, N.E., in Washington, D.C. (the "Minnesota Avenue Facility"), including the specific USTs at issue in this matter, consisting of the following:

a. A 10,000-gallon UST ("Tank MN-1") containing premium gasoline;

b. A 10,000-gallon UST ("Tank MN-2") containing premium gasoline;

c. A 10,000-gallon UST ("Tank MN-3") containing mid-grade gasoline; and

d. A 10,000-gallon UST ("Tank MN-4") containing regular gasoline.

72. At all times relevant to the violations set forth in this Count, Tanks MN-1, MN-2, MN-3 and MN-4 were each used to store gasoline, which is a petroleum product and is a "regulated substance" as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991 and 20 DCMR § 6899.1.

73. At all times relevant to the violations set forth in this Count, Tanks MN-1, MN-2, MN-3 and MN-4 were each part of a "petroleum UST system" as that term is defined in 20 DCMR § 6899.1.

74. At all times relevant to the violations set forth in this Count, Tanks MN-1, MN-2, MN-3 and MN-4 routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus were not "empty" as defined in 20 DCMR § 6100.7(a).

75. On March 30, 2005, an EPA inspector conducted an inspection of the Minnesota Avenue Facility. As of the date of this inspection, no tank release detection records for Tanks MN-1, MN-2, MN-3 and MN-4 were available for inspection at the Minnesota Avenue Facility.

76. EPA's August 1, 2006, EPA information request required, in relevant part, that Respondent provide copies of all records or other documentation of tank release detection at the Minnesota Avenue Facility for the prior three years.

77. Respondents' response to EPA's August 1, 2006, information request did not include any tank release detection documentation for the Minnesota Avenue Facility for the period prior to January, 2005 (for Tanks MN-1, MN-3 and MN-4), or prior to February, 2005 (for Tank MN-2), except for documentation of tank tightness tests on all four USTs in May, 2004. Other than these tank tightness testing records for May, 2004, Respondents did not maintain records for tank release detection for these tanks for the period prior to January, 2005 (for Tanks MN-1, MN-3 and MN-4), or prior to February, 2005 (for Tank MN-2).

78. From August 1, 2003 through the date of this Consent Agreement, Respondents violated 20 DCMR §§ 5602.4, 5602.5, 6001.1 and 6001.3 by failing to maintain records of compliance with release detection requirements for Tanks MN-1, MN-3 and MN-4, as required by those Sections, for tank release detection occurring during the periods from August, 2003 through April, 2004 and from June, 2004 through December, 2004. From August 1, 2003 through the date of this Consent Agreement, Respondents violated 20 DCMR §§ 5602.4, 5602.5, 6001.1 and 6001.3 by failing to maintain records of compliance with release detection requirements for Tank MN-2, as required by those Sections, for tank release detection occurring during the periods from August, 2003 through April, 2004 and from June, 2004 through January, 2005.

COUNT 7 – 4700 South Capitol Street

79. From August 1, 2003 to the present, Respondents have each been an "owner" and/or "operator," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, of a number of "USTs" and "UST systems," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, located at the Shell Gas Station at 4700 South Capitol Street, S.E., in Washington, D.C. (the "South Capitol Street Facility"), including the specific USTs at issue in this matter, consisting of the following:

a. A 10,000-gallon UST ("Tank SC-1") containing regular gasoline;

b. A 10,000-gallon UST ("Tank SC-2") containing mid-grade gasoline; and

c. A 10,000-gallon UST ("Tank SC-3") containing premium gasoline.

80. At all times relevant to the violations set forth in this Count, Tanks SC-1, SC-2 and SC-3 were each used to store gasoline, which is a petroleum product and is a "regulated substance" as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991 and 20 DCMR § 6899.1.

81. At all times relevant to the violations set forth in this Count, Tanks SC-1, SC-2 and SC-3 were each part of a "petroleum UST system" as that term is defined in 20 DCMR § 6899.1.

82. At all times relevant to the violations set forth in this Count, Tanks SC-1, SC-2 and SC-3 routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus were not "empty" as defined in 20 DCMR § 6100.7(a).

83. On August 30, 2005, an EPA inspector conducted an inspection of the South Capitol Street Facility. As of the date of this inspection, the only release detection records for Tanks SC-

1, SC-2 and SC-3 available for inspection at the South Capitol Street Facility were records for August, 2005, the month of the inspection.

84. EPA's August 1, 2006, EPA information request required, in relevant part, that Respondent provide copies of all records or other documentation of tank release detection at the South Capitol Street Facility for the prior three years.

85. Respondents' response to EPA's August 1, 2006, information request did not include any tank release detection documentation for the South Capitol Street Facility for the period prior to September, 2005 (for Tank SC-1), prior to August, 2005 (for Tank SC-2), or prior to November, 2005 (for Tank SC-3). Respondents did not maintain records for tank release detection for these tanks for the period prior to September, 2005 (for Tank SC-1), prior to August, 2005 (for Tank SC-2), or prior to November, 2005 (for Tank SC-3).

86. From August 1, 2003 through the date of this Consent Agreement, Respondents violated 20 DCMR §§ 5602.4, 5602.5, 6001.1 and 6001.3 by failing to maintain records of compliance with release detection requirements for Tank SC-1, as required by those Sections, for tank release detection occurring during the periods from August, 2003 through September, 2005. From August 1, 2003 through the date of this Consent Agreement, Respondents violated 20 DCMR §§ 5602.4, 5602.5, 6001.1 and 6001.3 by failing to maintain records of compliance with release detection requirements for Tank SC-2, as required by those Sections, for tank release detection occurring during the periods from August, 2003 through August, 2005. From August 1, 2003 through the date of this Consent Agreement, Respondents violated 20 DCMR §§ 5602.4, 5602.5, 6001.1 and 6001.3 by failing to maintain records of compliance with release detection

requirements for Tank SC-3 at the South Capitol Street Facility for tank release detection occurring during the periods from August, 2003 through November, 2005.

COUNT 8 – 2300 South Dakota Avenue

87. From August 1, 2003 to the present, Respondents have each been an "owner" and/or "operator," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, of a number of "USTs" and "UST systems," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, located at the Shell Gas Station at 2300 South Dakota Avenue, N.E., in Washington, D.C. (the "South Dakota Avenue Facility"), including the specific USTs at issue in this matter, consisting of the following:

a. A 10,000-gallon UST ("Tank SD-1") containing regular gasoline;

b. A 10,000-gallon UST ("Tank SD-2") containing mid-grade gasoline; and

c. A 10,000-gallon UST ("Tank SD-3") containing premium gasoline.

88. At all times relevant to the violations set forth in this Count, Tanks SD-1, SD-2 and SD-3 were each used to store gasoline, which is a petroleum product and is a "regulated substance" as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991 and 20 DCMR § 6899.1.

89. At all times relevant to the violations set forth in this Count, Tanks SD-1, SD-2 and SD-3 were each part of a "petroleum UST system" as that term is defined in 20 DCMR § 6899.1.

90. At all times relevant to the violations set forth in this Count, Tanks SD-1, SD-2 and SD-3 routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus were not "empty" as defined in 20 DCMR § 6100.7(a).

91. On August 31, 2005, an EPA inspector conducted an inspection of the South Dakota Avenue Facility. As of the date of this inspection, no tank release detection records for Tanks SD-1, SD-2 and SD-3 were available for inspection at the South Dakota Avenue Facility.

92. EPA's August 1, 2006, EPA information request required, in relevant part, that Respondents provide copies of all records or other documentation of tank release detection at the South Dakota Avenue Facility for the prior three years.

93. Respondents' response to EPA's August 1, 2006, information request did not include any tank release detection documentation for Tanks SD-1, SD-2 and SD-3 at the South Dakota Avenue Facility for the period prior to September, 2005 (for Tank SD-1), or prior to August, 2005 (for Tanks SD-2 and SD-3). Respondents did not maintain records for tank release detection for these tanks for the period prior to September, 2005 (for Tank SD-1), or prior to August, 2005 (for Tanks SD-2 and SD-3).

94. From August 1, 2003 through the date of this Consent Agreement, Respondents violated 20 DCMR §§ 5602.4, 6001.1 and 6001.3 by failing to maintain records of compliance with release detection requirements for Tank SD-1 as required by those Sections, for tank release detection occurring during the period from August, 2003 through August, 2005. From August 1, 2003 through the date of this Consent Agreement, Respondents violated 20 DCMR §§ 5602.4, 6001.1 and 6001.3 by failing to maintain records of compliance with release detection requirements for Tanks SD-2 and SD-3, as required by those Sections, for tank release detection occurring during the period from August, 2003 through July, 2005.

COUNT 9 – 4140 Georgia Avenue

95. From August 1, 2003 to the present, Respondents have each been an "owner" and/or "operator," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, of a number of "USTs" and "UST systems," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, located at the Shell Gas Station at 4140 Georgia Avenue, N.W., in Washington, D.C. (the "Georgia Avenue Facility"). Specifically, Respondents have each been an "owner" and/or "operator," of an "UST" and "UST system" consisting of a 1,000-gallon UST ("Tank GA-4") containing used motor oil from at least August 1, 2003 until such UST was emptied on or about July 19, 2007.

96. At all times relevant to the violations set forth in this Count, Tank GA-4 was used to store used motor oil, which is a petroleum product and is a "regulated substance" as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991 and 20 DCMR § 6899.1.

97. At all times relevant to the violations set forth in this Count, Tank GA-4 was part of a "petroleum UST system" as that term is defined in 20 DCMR § 6899.1.

98. From at least August 1, 2003 until such UST was emptied on or about July 19, 2007, Tank GA-4 routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus was not "empty" as defined in 20 DCMR § 6100.7(a).

99. From August 1, 2003 until it was emptied on or about July 19, 2007, Tank GA-4 was not monitored in compliance with any of the methods set forth in 20 DCMR §§ 6005 through 6012.

100. From August 1, 2003 until Tank GA-4 was emptied on or about July 19, 2007, Respondents violated 20 DCMR §§ 6000 and 6003 by failing to provide a method or methods of

tank release detection for the UST system designated as Tank GA-4 at the Georgia Avenue Facility which meets the requirements referenced in such regulations.

COUNT 10 – 6201 New Hampshire Avenue

101. From August 1, 2003 to the present, Respondents have each been an "owner" and/or "operator," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, of a number of "USTs" and "UST systems," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, located at the Shell Gas Station at 6201 New Hampshire Avenue, N.E., in Washington, D.C. (the "New Hampshire Avenue Facility"), including the specific USTs at issue in this matter, consisting of the following:

a. A 10,000-gallon UST ("Tank NH-1") containing regular gasoline; and

b. A 10,000-gallon UST ("Tank NH-2") containing regular gasoline.

102. At all times relevant to the violations set forth in this Count, Tanks NH-1 and NH-2 were each used to store gasoline, which is a petroleum product and is a "regulated substance" as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991 and 20 DCMR § 6899.1.

103. At all times relevant to the violations set forth in this Count, Tanks NH-1 and NH-2 were each part of a "petroleum UST system" as that term is defined in 20 DCMR § 6899.1.

104. At all times relevant to the violations set forth in this Count, Tanks NH-1 and NH-2 routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus were not "empty" as defined in 20 DCMR § 6100.7(a).

105. From August 1, 2003 until at least December 1, 2006, Tanks NH-1 and NH-2 were not monitored in compliance with any of the methods set forth in 20 DCMR §§ 6005 through 6007 and 6009 through 6012.

106. An ATG system has been present at the New Hampshire Avenue Facility since prior to August 1, 2003. This ATG system, if properly programmed and operated, appears to have been capable of performing "in-tank" testing on Tanks NH-1 and NH-2 which could have complied with the requirements of 20 DCMR § 6008. However, until February 1, 2005, this ATG system was not programmed and operated such that it generated valid tank release detection monitoring results at least every 30 days.

107. From March 1, 2005 through April 30, 2005, from July 1, 2005 through August 31, 2005, and from November 1, 2005 through October 31, 2006, Respondent failed to obtain a valid "in-tank" ATG test result for Tanks NH-1 and NH-2.

108. From March 1, 2005 through April 30, 2005, from July 1, 2005 through August 31, 2005, and from November 1, 2005 through October 31, 2006, Respondents violated 20 DCMR §§ 6000 and 6003 by failing to provide a method or methods of tank release detection for the UST systems designated as Tanks NH-1 and NH-2 at the New Hampshire Avenue Facility which meets the requirements referenced in such regulations.

COUNT 11 – 4940 Connecticut Avenue

109. From March 4, 2004 to the present, Respondents have each been an "owner" and/or "operator," as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, of a number of "USTs" and "UST systems," as those terms are defined in

Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, located at the Shell Gas Station at 4940 Connecticut Avenue, N.W., in Washington, D.C. (the "Connecticut Avenue Facility"), including the specific USTs at issue in this matter, consisting of the following:

a. A 10,000-gallon UST ("Tank CT-1") containing regular gasoline;

b. A 10,000-gallon UST ("Tank CT-2") containing premium gasoline; and

c. A 10,000-gallon UST ("Tank CT-3") containing diesel fuel.

110. At all times relevant to the violations set forth in this Count, Tanks CT-1 and CT-2 were each used to store gasoline, which is a petroleum product and is a "regulated substance" as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991 and 20 DCMR § 6899.1.

111. At all times relevant to the violations set forth in this Count, Tank CT-3 was used to store diesel fuel, which is a petroleum product and is a "regulated substance" as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991 and 20 DCMR § 6899.1.

112. At all times relevant to the violations set forth in this Count, Tanks CT-1, CT-2 and CT-3 were each part of a "petroleum UST system" as that term is defined in 20 DCMR § 6899.1.

113. At all times relevant to the violations set forth in this Count, Tanks CT-1, CT-2 and CT-3 routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus were not "empty" as defined in 20 DCMR § 6100.7(a).

114. From March 4, 2004 until at least December 1, 2006, Tanks CT-1, CT-2 and CT-3 were not monitored in compliance with any of the methods set forth in 20 DCMR §§ 6005 through 6007 and 6009 through 6012.

115. An ATG system has been present at the Connecticut Avenue Facility since prior to March 4, 2004. This ATG system, if properly programmed and operated, appears to have been capable of performing "in-tank" testing on Tanks CT-1, CT-2 and CT-3 which could have complied with the requirements of 20 DCMR § 6008. However, until September 1, 2005, this ATG system was not programmed and operated such that it generated valid tank release detection monitoring results at least every 30 days.

116. From March 4, 2004 through April 30, 2005, and from July 1, 2005 through August 31, 2005, Respondent failed to obtain a valid "in-tank" ATG test result for Tank CT-1.

117. From March 4, 2004 through April 30, 2005, Respondent failed to obtain a valid "in-tank" ATG test result for Tanks CT-2 and CT-3.

118. From March 4, 2004 through April 30, 2005, and from July 1, 2005 through August 31, 2005, Respondents violated 20 DCMR §§ 6000 and 6003 by failing to provide a method or methods of tank release detection for the UST system designated as Tank CT-1 at the Connecticut Avenue Facility which meets the requirements referenced in such regulations.

119. From March 4, 2004 through April 30, 2005, Respondents violated 20 DCMR §§ 6000 and 6003 by failing to provide a method or methods of tank release detection for the UST systems designated as Tanks CT-2 and CT-3 at the Connecticut Avenue Facility which meets the requirements referenced in such regulations.

III. CERTIFICATION OF COMPLIANCE

120. As to all relevant provisions of Subtitle I of RCRA, the District of Columbia Authorized UST Management Program and the Maryland Authorized UST Management Program allegedly

violated as set forth in the Findings of Fact and Conclusions of Law, above, each Respondent certifies to EPA that, upon investigation, to the best of such Respondent's knowledge and belief, such Respondent is presently in compliance with all such relevant provisions and regulations.

IV. CIVIL PENALTY

121. Respondents agree to pay a civil penalty in the amount of eighty thousand dollars ($80,000.00), for which Respondents shall be jointly and severally liable and which Respondents agree to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondents' receipt of a true and correct copy of this CAFO fully executed by all parties. In order to avoid the assessment of interest in connection with such civil penalty as described in Paragraph 131 of this CAFO, Respondents must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondents. In order to avoid the assessment of administrative costs and late payment penalties, Respondents must either pay the civil penalty in full no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondents, or pay the civil penalty in full, plus accrued interest, by remitting installment payments pursuant to the schedule set forth in Paragraph 123, below.

122. Having determined that this Consent Agreement is in accordance with law and that the civil penalty amount was determined after consideration of the statutory factors set forth in Section 9006(c) and (e) of RCRA, 42 U.S.C. § 6991*e*(c) and (e), which include the seriousness of the violation, any good faith efforts to comply with the applicable requirements, the compliance history of the owner and operator, and any other appropriate factors, EPA hereby agrees and

acknowledges that payment of the civil penalty shall be in full and final satisfaction of all civil claims for penalties which Complainant may have under Section 9006(d) of RCRA, 42 U.S.C. § 6991*e*(d), for the violations alleged in this Consent Agreement and Final Order.

123. The civil penalty of eighty thousand dollars ($80,000.00) set forth in Paragraph 121, above, shall be paid in eight (8) installments with interest at the rate of five percent (5%) per annum on the outstanding principal balance in accordance with the following schedule:

a. 1st Payment: The first payment in the amount of ten thousand dollars ($10,000.00), consisting of a principal payment of $10,000.00 and an interest payment of $0.00, shall be paid within thirty (30) days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondents.

b. 2nd Payment: The second payment in the amount of ten thousand five hundred seventy-five dollars and thirty-four cents ($10,575.34), consisting of a principal payment of $10,000.00 and an interest payment of $575.34, shall be paid within sixty (60) days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondents.

c. 3rd Payment: The third payment in the amount of ten thousand two hundred forty-six dollars and fifty-eight cents ($10,246.58), consisting of a principal payment of $10,000.00 and an interest payment of $246.58, shall be paid within ninety (90) days after the date on

which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondents.

d. 4th Payment: The fourth payment in the amount of ten thousand two hundred five dollars and forty-eight cents ($10,205.48), consisting of a principal payment of $10,000.00 and an interest payment of $205.48, shall be paid within one hundred twenty (120) days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondents.

e. 5th Payment: The fifth payment in the amount of ten thousand one hundred sixty-four dollars and thirty-eight cents ($10,164.38), consisting of a principal payment of $10,000.00 and an interest payment of $164.38, shall be paid within one hundred fifty (150) days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondents.

f. 6th Payment: The sixth payment in the amount of ten thousand one hundred twenty-three dollars and twenty-nine cents ($10,123.29), consisting of a principal payment of $10,000.00 and an interest payment of $123.29, shall be paid within one hundred eighty (180) days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondents.

g. 7th Payment: The seventh payment in the amount of ten thousand eighty-two dollars and nineteen cents ($10,082.19), consisting of a principal payment of $10,000.00 and an interest payment of $82.19, shall be paid within two hundred ten (210) days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondents.

h. 8th Payment: The eighth and final payment in the amount of ten thousand forty-one dollars and ten cents ($10,041.10), consisting of a principal payment of $10,000.00 and an interest payment of $41.10, shall be paid within two hundred forty (240) days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondents.

Pursuant to the above schedule, Respondents will remit total principal payments for the civil penalty in the amount of eighty thousand dollars ($80,000.00) and total interest payments in the amount of one thousand four hundred thirty-eight dollars and thirty-six cents ($1,438.36).

124. If Respondents fail to make one of the installment payments in accordance with the schedule set forth in Paragraph 123, above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondents shall *immediately* pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondents shall be

liable for and shall pay administrative handling charges and late payment penalty charges as described in Paragraphs 132 and 133, below, in the event of any such failure or default.

125. Notwithstanding Respondents' agreement to pay the assessed civil penalty in accordance with the installment schedule set forth in Paragraph 123, above, Respondents may pay the entire civil penalty of eighty thousand dollars ($80,000.00) within thirty (30) calendar days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondents and, thereby, avoid the payment of interest pursuant to 40 C.F.R.§ 13.11(a)(1), as described in Paragraph 131, below. In addition, Respondents may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.

126. Respondents shall remit each installment payment for the civil penalty and interest, pursuant to Paragraph 123, above, and/or the full penalty, pursuant to Paragraphs 124 or 125, above, and/or any administrative fees and late payment penalties, in accordance with Paragraphs 130 through 133, below, via one of the following methods:

a. Via U.S. Postal Service regular mail of a certified or cashier's check, made payable to the "United States Treasury", sent to the following address:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

b. Via overnight delivery of a certified or cashier's check, made payable to the "United States Treasury", sent to the following address:

US Environmental Protection Agency
Fines and Penalties
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

The U.S. Bank customer service contact for both regular mail and overnight delivery is Natalie Pearson, who may be reached at 314-418-4087.

c. Via electronic funds transfer ("EFT") to the following account:

Federal Reserve Bank of New York
ABA No. 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"

The Federal Reserve customer service contact may be reached at 212-720-5000.

d. Via automatic clearinghouse ("ACH"), also known as Remittance Express ("REX"), to the following account:

PNC Bank
ABA No. 05136706
Environmental Protection Agency
Account 310006
CTX Format
Transaction Code 22 - checking
808 17th Street NW
Washington, D.C. 20074.

The PNC Bank customer service contact, Jesse White, may be reached at 301-887-6548.

e. Via on-line payment (from bank account, credit card, debit card), access "www.pay.gov" and enter "sfo 1.1" in the search field. Open the form and complete the required fields.

127. All payments by the Respondents shall include the Respondents' full names and addresses and the EPA Docket Number of this Consent Agreement (RCRA-03-2008-0180).

128. At the time of payment, Respondents shall send a notice of such payment, including a copy of the check, EFT authorization or ACH authorization, 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

Benjamin D. Fields
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region lll (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

129. Respondents agree not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.

130. 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, Respondents' failure to make timely payment as specified in this Consent Agreement and Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

131. 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 Respondents. 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).

132. 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.

133. 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. PARTIES BOUND

134. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondents, Respondents' officers and directors (in their official capacity) and Respondents' successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of both Respondents acknowledges that he or she is fully

authorized to enter into this Consent Agreement and to bind both Respondents to the terms and conditions of this Consent Agreement and the accompanying Final Order.

VI. EFFECTIVE DATE

135. The effective date of this Consent Agreement and Final Order is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Judicial Officer or Regional Administrator.

For Respondents DAG Petroleum Suppliers, LLC and DAG Realty, LLC:

Date: May 21, 2008 By: _____

Eyob Mamo
Managing Member, DAG Petroleum Suppliers, LLC
Managing Member, DAG Realty, LLC

For Complainant United States Environmental Protection Agency, Region III:

Date: 5/23/08 By: _____

Benjamin D. Fields
Senior Assistant Regional Counsel

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

6/10/08
Date

By: _____

Abraham Ferdas, Director
Waste and Chemicals Management
Division

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

In the Matter of:	)	
	)	
DAG Petroleum Suppliers, LLC	)	
6820-B Commercial Drive	)	
Springfield, Virginia 22151,	)	
	)	U.S. EPA Docket Number
and	)	RCRA-03-2008-0180
	)	
DAG Realty, LLC	)	Final Order
6820-B Commercial Drive	)	
Springfield, Virginia 22151,	)	
	)	
RESPONDENTS	)	
	)	

FINAL ORDER

The Director, Waste and Chemicals Management Division, U.S. Environmental Protection Agency - Region III ("Complainant"), DAG Petroleum Suppliers, LLC and DAG Realty, LLC ("Respondents"), 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 9006(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6991*e*(a), and based on representations in the Consent Agreement 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. § 6991*e*(c) and (e), Respondents DAG Petroleum Suppliers, LLC and DAG Realty, LLC are hereby ordered to pay a civil penalty of eighty thousand dollars ($80,000.00), as set forth in Section IV of the Consent Agreement, and to comply with the terms and conditions of the Consent Agreement.

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

Date: 6/16/08

Renée Sarajian

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

CERTIFICATE OF SERVICE

I hereby certify that on the date below I hand-delivered the original and one copy of the attached Consent Agreement and Final Order to the Regional Hearing Clerk, and caused copies to be served as follows:

Via Federal Express: Alphonse M. Alfano
Bassman, Mitchell & Alfano
1707 L Street, N.W.
Suite 560
Washington, D.C. 20036

6/16/08
Date

Benjamin D. Fields
Senior Assistant Regional Counsel