

**EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

**TO BE FILLED OUT BY ORIGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: L. Romano 9-17-09  
Name of Contact person Date

in the one at X.2601  
Office Phone number

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS  
 Administrative Order/ Consent Agreement FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt  This is a modification

Name of Person and/or Company/Municipality making the payment  
Switzerland Fresh Water

The Total Dollar Amount of Receivable \$16,271.00  
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number RCR-03-2009-0239  
The Site-Specific Superfund Acct. Number \_\_\_\_\_  
The Designated Regional/HQ Program Office \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

The IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
Name of Contact Date

in the Financial Management Office, phone number: \_\_\_\_\_

**JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

1. U.S. Environmental Protection Agency  
Cincinnati Finance Center  
26 W. Martin Luther King Drive (MS-002)  
Cincinnati, OH 45268
2. Originating Office (ORC)
3. Designated Program Office

Attn: Lori Weidner

**ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the administrative order should be sent to:

1. Originating Office
2. Designated Program Office
3. Regional Hearing Clerk
3. Regional Counsel

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

**REGULAR MAIL**

September 22, 2009

Lori Weidner  
U.S. Environmental Protection Agency  
Cincinnati Finance Center  
26 W. MLK Drive  
Cincinnati, OH 45268

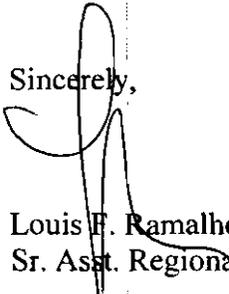
Re: **Accounts Receivable**  
In the Matter Smithsonian Institution  
RCRA-03-2009-0239  
*Consent Agreement and Final Order*

Dear Ms. Weidner:

Enclosed please find a true and correct copy of the Consent Agreement and Final Order, and the Enforcement Accounts Receivable Control Number Forms (EARCNF) filed with the Regional Hearing Clerk today in settlement of the above referenced subject matters.

Should you have any question or require further information, please feel free to call me at (215) 814-2681.

Sincerely,

  
Louis F. Ramalho  
Sr. Asst. Regional Counsel

Enclosures

cc: Lydia Guy  
Regional Hearing Clerk  
U.S. EPA, Region III

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

**FEDEX**  
**CONFIRMATION OF RECEIPT REQUESTED**

September 22, 2009

Farleigh Earhart  
Associate General Counsel  
Office of General Counsel  
Smithsonian Institution  
1000 Jefferson Dr., SW, Room 302  
Washington, DC 20560

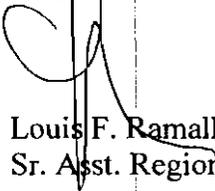
Re: **Consent Agreement and Final Order**  
In re: Smithsonian Institution  
EPA Docket No. RCRA-03-2009-0239

Dear Ms. Earhart:

Enclosed please find a true and correct copy of a fully executed Consent Agreement and Final Order in settlement of the above referenced matter.

Thank you again for your assistance in resolving this matter. Should you have any questions or concerns, please feel free to contact me at (215) 814-2681.

Respectfully,



Louis F. Ramalho  
Sr. Asst. Regional Counsel

Enclosures

cc: A. Ma (3LC70)

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

In the Matter of:	)	
	)	
	)	
<b>Smithsonian Institution</b>	)	U.S. EPA Docket Number
	)	RCRA-03-2009-0239
RESPONDENT,	)	
	)	Proceeding Under Section 9006(a) of the
	)	Resource Conservation and Recovery Act,
	)	as amended, 42 U.S.C. § 6991e(a).
<b>Smithsonian Institution</b>	)	
<b>South Quadrangle</b>	)	
<b>1050 Independence Avenue, SW</b>	)	CONSENT AGREEMENT
<b>Washington, DC 20560</b>	)	
	)	
	)	
FACILITY.	)	

9909 SEP 22 AM 11:19

**CONSENT AGREEMENT**

This Consent Agreement ("CA") is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("EPA" or "Complainant") and the Smithsonian Institution ("Respondent"), pursuant to Section 9006 and Section 9007 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6991e and § 6991f, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3).

This CA and the Final Order (collectively "CAFO"), resolve violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and the District of Columbia's federally authorized underground storage tank program by Respondent in connection with its underground storage tank at Respondent's facility located at South Quadrangle, 1050 Independence Avenue, SW, Washington, DC 20560 (the "Facility").

Effective May 4, 1998, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the District of Columbia was granted final authorization to administer a state UST management program *in lieu* of the Federal UST management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m. The provisions of the District of Columbia UST management program, through this final authorization, are enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. The District of Columbia's authorized

UST program regulations are set forth in the District of Columbia Municipal Regulations, Title 20, Chapters 55 *et seq.*, and will be cited hereinafter as 20 DCMR §§ 5500 *et seq.*

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

### **GENERAL PROVISIONS**

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO, except as provided in Paragraph 1, above.
3. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the attached Final Order ("FO"), or the enforcement of the CAFO.
4. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in this CA and any right to appeal the accompanying FO. In addition, Respondent waives its right to confer with the Administrator pursuant to RCRA § 6001(b)(2), 42 U.S.C. § 69661(b)(2).
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 provisions of this CAFO shall be binding upon Respondent, and its officers, directors, employees, successors and assigns.
8. 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.
9. 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 the CA 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.

**FACTUAL ALLEGATIONS AND CONCLUSIONS OF LAW**

10. The United States Environmental Protection Agency - Region III ("EPA" or the "Region") and EPA's Office of Administrative Law Judges have jurisdiction over this matter pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, 40 C.F.R. Part 280 and 40 C.F.R. § 22.1(a)(4) and .4(c).
11. Respondent, Smithsonian Institution, is a trust instrumentality and functionally and legally a body of the U.S. Government, and is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 20 DCMR § 6899.1.
12. At all times relevant to the violations in 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 20 DCMR § 6899.1, of the "underground storage tank" ("UST") and "UST system" as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and 20 DCMR § 6899.1, located at 1050 Independence Avenue, SW, Washington, DC 20560 (the "Facility").
13. On November 18, 2008, an EPA representative conducted a Compliance Evaluation Inspection ("CEI") of the Facility pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.
14. At the time of the November 18, 2008 CEI, and at all times relevant to the applicable violations alleged herein, one (1) UST was located at Facility as described in the following subparagraph:
  - A. A one thousand (1,000) gallon single-walled fiberglass reinforced plastic tank that was installed in January 1990, 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 20 DCMR § 6899.1 (hereinafter "UST").
15. At all times relevant to the applicable violations alleged in this CAFO, the UST has been a "petroleum UST system" and "existing tank system" as these terms are defined in 20 DCMR § 6899.1.
16. The UST is and was, at all times relevant to the applicable violations alleged in this CAFO, used to store "regulated substance(s)" at Respondent's Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1, and have not been "empty" as that term is defined at 20 DCMR § 6100.7.

**COUNT 1**

(Failure to meet the UST system performance standards for spill and overflow prevention on the UST)

17. The allegations of Paragraphs 1 through 16 of this CAFO are incorporated herein by reference.
18. 20 DCMR § 5705.2 provides, except as provided in 20 DCMR § 5705.3, that to prevent overflowing associated with the transfer of regulated substances, each owner and operator must use overflow prevention equipment that does the following:
  - (a) Automatically shuts off flow into the tank when the tank is no more than ninety-five percent (95%) full; or
  - (b) Alerts the transfer operator when the tank is no more than ninety percent (90%) full by restricting the flow into the tank or triggering a high-level alarm.
19. 20 DCMR § 5803.1 provides that all existing UST systems shall comply with new UST system spill and overflow prevention equipment requirements specified in 20 DCMR § 5705 to prevent spilling and overflowing associated with product transfer to the UST system.
20. From November 18, 2008 to May 8, 2009, Respondent failed to install certain overflow prevention equipment for the UST as described in 20 DCMR § 5705.2. The UST did not fall within the exception in 20 DCMR § 5705.3 and the UST was not in compliance with the closure requirements of 20 DCMR Chapter 61.
21. Respondent's acts and/or omissions as alleged in Paragraph 20, above, constitute violations by Respondent of 20 DCMR §§ 5705.2 and 5803.1.

**COUNT 2**

(Failure to provide corrosion protection on the metal piping for the UST)

22. The allegations in Paragraphs 1 through 21, of this CAFO are incorporated herein by reference.
23. 20 DCMR § 5700.1 provides, in pertinent part, that the owner and operator of an existing UST system installed after December 22, 1988 and before November 12, 1993 shall be in compliance with the federally-required new tank performance standards set forth in 40 C.F.R. § 280.20. UST systems in this category which have not met such federal standards must be immediately upgraded to meet such standards, permanently closed in accordance

with 20 DCMR Chapter 61 or replaced with an UST system which meets the District of Columbia's new tank performance standards set forth in 20 DCMR § 5701.

24. 40 C.F.R. § 280.20(b) provides that piping that routinely contains regulated substances and is in contact with the ground must 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. 40 C.F.R. § 280.20(b) further provides that:
- (1) the piping be constructed of fiberglass-reinforced plastic; or
  - (2) the piping be constructed of steel and cathodically protected in the following manner:
    - (i) the piping is coated with a suitable dielectric material;
    - (ii) field-installed cathodic protection systems are designed by a corrosion expert;
    - (iii) impressed current systems are designed to allow determination of current operating status as required in § 280.31 or guidelines established by the implementing agency; and
    - (iv) cathodic protection systems are operated and maintained in accordance with § 280.31 or guidelines established by the implementing agency; or
  - (3) the piping is constructed of metal without additional corrosion protection measures provided that (i) the piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life; and (ii) owners and operators maintain records that demonstrate compliance with the requirements of paragraph (b)(3)(i) of this section for the remaining life of the piping; or
  - (4) the piping construction and corrosion protection are determined by the implementing agency to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements (b)(1) through (3).
25. From October 1, 2004 until November 18, 2008, the underground piping for the UST was made of steel, routinely contained regulated substances, and was in contact with the ground.

26. From October 1, 2004 until November 18, 2008, the steel piping for the UST was not properly designed, constructed and protected from corrosion in accordance with 40 C.F.R. § 280.20(b). Specifically, Respondent failed to provide cathodic protection for metal piping components associated with the UST containing diesel fuel from the date of the tank system to the present.
27. Respondent's act or omission as described in Paragraph 26, above, constitutes a violation by Respondent of 20 DCMR § 5700.1.

### **COMPLIANCE ORDER**

28. Pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, Respondent is hereby ordered to:
  - A. Within one hundred twenty (120) days of the effective date of this CAFO, close the UST system located at the Facility in accordance with 20 DCMR Chapter 61 to include completion of the removal of the UST system and any corrective measures required under 20 DCMR Chapter 62 and, within sixty (60) days thereafter, submit to EPA a closure report and certification that the tank is permanently and properly closed.
29. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this CAFO which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this CAFO shall be certified by a principal executive officer or ranking official as defined at 40 C.F.R. § 270.11(a):

The certification required above shall be in the following form:

I certify that the information contained in or accompanying this [type of submission] is 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: \_\_\_\_\_

30. All documents and reports to be submitted pursuant to this CAFO shall be sent to the following persons:

- a. Documents to be submitted to EPA shall be sent either by overnight mail or by certified mail, return receipt requested to:

Louis F. Ramalho (3RC30)  
Assistant Regional Counsel  
U. S. Environmental Protection Agency Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103

- b. One copy of all documents submitted to EPA shall be sent by first class mail to:

Fianna Phill  
Chief, UST/LUST Branch  
Toxics Substances Division  
District Department of the Environment  
51 N Street, NE, 6<sup>th</sup> Floor  
Washington, DC 20002-3327

- c. One copy of all documents submitted to EPA shall be sent by first class mail to:

Andrew Ma (3LC70)  
Environmental Scientist  
U. S. Environmental Protection Agency Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103

**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 Sixteen Thousand Two Hundred Seventy One Dollars (\$16,271.00). The civil penalty amount is due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO.

32. 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.

33. Respondent shall pay the amount described in Paragraph 31, above, by sending a certified or cashier's check payable to the "United States Treasury," as follows:

- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2009-0239;
- b. All checks shall be made payable to "**United States Treasury**";
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

Contact: Natalie Pearson, 314-418-4087

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

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

Contact: Natalie Pearson, 314-418-4087

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

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727

SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

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

Automated Clearinghouse (ACH) for receiving US currency  
PNC Bank  
808 17th Street, NW  
Washington, DC 20074  
Contact: Jesse White 301-887-6548

ABA = 051036706  
Transaction Code 22 - Checking  
Environmental Protection Agency  
Account 310006  
CTX Format

- g. On-Line Payment Option:

WWW.PAY.GOV

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

- h. The customer service phone numbers for the above payment centers are:

212-720-5000 (wire transfers, Federal Reserve Bank of New York)  
800-762-4224 (ACH/Wire Info, PNC Bank)

Additional payment guidance is available at:

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

34. 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

Louis F. Ramalho  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.

**FULL AND FINAL SATISFACTION**

35. 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**

36. 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.
37. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligation to comply with RCRA, the applicable regulations thereunder, or with this CAFO. Nothing in this CAFO shall be interpreted to require obligation or payment of funds in violation of the Antideficiency Act, 31 U.S.C. § 1341.

**OTHER APPLICABLE LAWS**

38. 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**

39. The undersigned representatives of Respondent certify that they are fully authorized to enter into the terms and conditions of this Consent Agreement and bind Respondent hereto.

**ENTIRE AGREEMENT**

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

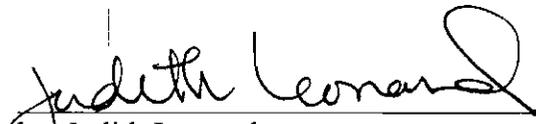
**EFFECTIVE DATE**

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

For Respondent:

Smithsonian Institution

9/14/09  
Date

  
by Judith Leonard

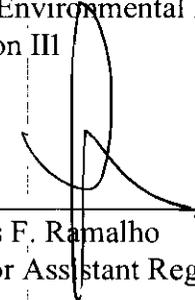
09/14/09  
Date

  
by: Clair Gill

For Complainant:

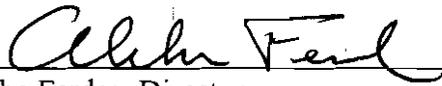
U.S. Environmental Protection Agency,  
Region III

9-17-09  
Date

  
Louis F. Ramalho  
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.

9/17/09  
Date

By:   
Abe Ferdas, Director,  
Land and Chemicals Division, EPA Region III

**Fw: consent order**  
Louis Ramalho to: Renee Sarajian

09/21/2009 04:20 PM

Per your request. Lou.

----- Forwarded by Louis Ramalho/R3/USEPA/US on 09/21/2009 04:16 PM -----



"Earhart, Farleigh"  
<earhartf@si.edu>

09/21/2009 03:57 PM

To Louis Ramalho/R3/USEPA/US@EPA

cc

Subject consent order

Dear Lou,

Sorry I missed your call. The two people that signed the consent order are Judith Leonard, General Counsel, and Clair Gill, Deputy Director and Chief of Staff, of the Office of Facilities, Engineering, and Operations.

Please let me know if you need any additional information.

Thanks,

Farleigh

Farleigh Earhart  
Associate General Counsel  
Smithsonian Institution  
P.O. Box 23286  
Washington, DC 20026-3286  
Tel. 202-633-5095  
Fax 202-357-4310

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

In the Matter of: )

**Smithsonian Institution** )

RESPONDENT, )

**Smithsonian Institution  
 South Quadrangle  
 1050 Independence Avenue, SW  
 Washington, DC 20560**

FACILITY. )

U.S. EPA Docket Number  
 RCRA-03-2009-0239

Proceeding Under Section 9006(a) of the  
 Resource Conservation and Recovery Act,  
 as amended, 42 U.S.C. § 6991e(a).

FINAL ORDER

2009 SEP 22 AM 11:20

**FINAL ORDER**

Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Smithsonian Institution, 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.

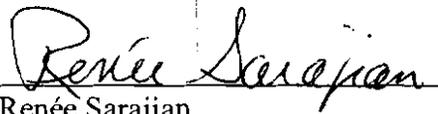
**NOW, THEREFORE, PURSUANT TO** Section 22.18(b)(3) of the *Consolidated Rules of Practice* **and** Section 9006(c) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6991e(c) ("RCRA"), and having determined, based on the representations of the parties in the

attached Consent Agreement, that the civil penalty 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 **SIXTEEN THOUSAND TWO HUNDRED SEVENTY-ONE DOLLARS (\$16,271.00)** in accordance with the payment provisions set forth in the attached Consent Agreement and comply with each of the additional terms and conditions as specified in the attached Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date:

9/22/09



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

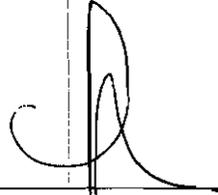
**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the date listed below, the original of the foregoing Consent Agreement and Final Order, Docket No. **RCRA-03-2009-0239** was filed with the Regional Hearing Clerk, U.S. EPA - Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and that a true and correct copy was sent to the following party:

Farleigh Earhart  
Associate General Counsel  
Office of General Counsel  
Smithsonian Institution  
1000 Jefferson Dr., SW, Room 302  
Washington, DC 20560

9-28-09

Date



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

900 SEP 22 AM 11:20