

**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: Donnette Thomas <sup>PROB. FILED 7 21 10:55</sup> 7/21/09  
Name of Contact person Date

in the ORC Office at 42474 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  
National Parks Service - U.S. Department of Interior

The Total Dollar Amount of Receivable \$ 9,500.00  
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number RCRA-03-2079-0212

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<br>Cincinnati Finance Center<br>26 W. Martin Luther King Drive (MS-002)<br>Cincinnati, OH 45268<br><br>Attn: Lori Weidner | 2. Originating Office (ORC)  |
|                                                                                                                                                                   | 3. Designated Program Office |

**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**

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

Re: Accounts Receivable  
In the Matter of National Park Service  
**Consent Agreement and Final Order**  
EPA Docket No. RCRA-03-2009-0212

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 Form (EARCNF) filed with the Regional Hearing Clerk today in settlement of the above referenced subject matter.

Should you have any question or require further information, please feel free to call me at (215) 814-2474.

Sincerely,

A handwritten signature in black ink, appearing to read "Donzetta W. Thomas".

Donzetta W. Thomas  
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**

In the Matter of:	)	
	)	
National Park Service - U.S. Department of the Interior	)	Docket Number: RCRA-3-2009-0212
National Capital Parks-East	)	
1900 Anacostia Drive, S.E.,	)	
Washington, D.C. 20020	)	
	)	
RESPONDENT,	)	
	)	
	)	Proceeding Under Sections 9006 and
Fort DuPont Maintenance Yard	)	9007 of the Resource Conservation and
3600 F Street, SE	)	Recovery Act, as amended, 42 U.S.C.
Washington, D.C. 20019	)	§ 6991e and f.
	)	
FACILITY.	)	

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**CONSENT AGREEMENT**

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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 National Park Service - U.S. Department of the Interior ("Respondent"), pursuant to Sections 9006 and 9007 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6991e and f, 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 tanks located at 3600 F Street, SE, Washington, D.C. (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.*

### **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 USTs 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 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 person signing this CA on behalf of the Respondent certifies to EPA by his/her 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 District of Columbia's federally authorized underground storage tank program set forth at 20 DCMR §§ 5500 *et. seq.* 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 District of Columbia 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") 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).
13. Respondent is a department, agency, and/or instrumentality of the United States as referred to in Section 9007 of RCRA, 42 U.S.C. § 6991f.
14. Respondent is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 20 DCMR § 6899.1.
15. 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 20 DCMR § 6899.1, 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 20 DCMR § 6899.1, located at the Facility.
16. On April 14, 2008, an EPA representative conducted a Compliance Evaluation Inspection ("CEI") of the Facility pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.
17. At the time of the April 14, 2008 CEI, and at all times relevant to the applicable violation alleged herein, the following UST was located at the Facility: a five thousand (5,000) gallon steel double-walled polyethylene tank that was installed in or about December

1991, and that, at all times relevant hereto, routinely contained and was used to store gasoline, 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 No. 1").

18. At the time of the April 14, 2008 CEI, and at all times relevant to the applicable violation alleged herein, the following UST was located at the Facility: a five thousand (5,000) gallon steel double-walled polyethylene tank that was installed in or about December 1991, 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 No. 2").
19. At all times relevant to the applicable violation alleged herein, USTs No. 1 and No. 2 have been "petroleum UST systems" and "new tank systems" as those terms are defined in 20 DCMR § 6899.1, respectively.
20. USTs No. 1 and No. 2 were, 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 Provide Tank Release Detection for UST No. 1)**

21. The allegations contained in Paragraphs 13 - 20, above, are incorporated herein by reference.
22. 20 DCMR § 6000.1 provides that each owner and operator of a new or existing UST system shall provide a method, or combination of methods, of release detection that meets the requirements described therein.
23. Pursuant to 20 DCMR §§ 6003.1 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 that: (1) prior to December 22, 1995, certain UST systems could have been monitored using a combination of inventory control and tank tightness testing in compliance with the requirements of 20 DCMR §§ 6005 through 6007; and (2) tanks with a capacity of 550 gallons or less may use weekly tank gauging conducted in accordance with 20 DCMR § 6006.
24. From at least August 2, 2004 until at least October 2, 2004; January 3, 2005 to March 5, 2005; May 2, 2005 to June 4, 2005; August 1, 2005 to September 3, 2005; December 5, 2005 to January 7, 2006; February 6, 2006 to April 1, 2006; June 5, 2006 to July 1, 2006;

July 31, 2006 to November 4, 2006; January 1, 2007 to March 3, 2007; May 7, 2007 to June 2, 2007; July 2, 2007 to August 4, 2007; September 3, 2007 to November 3, 2007; February 4, 2008 to April 5, 2008; June 2, 2008 to August 2, 2008; September 1, 2008 to October 4, 2008; and February 2, 2009 to March 10, 2009, UST No. 1 has not been monitored in compliance with any of the methods set forth in 20 DCMR § 6003.3 through 6003.5 and/or 20 DCMR §§ 6005 through 6012.

25. Respondent's acts and/or omissions as alleged in Paragraph 24, above, constitute violations of 20 DCMR §§ 6000.1 and 6003.

### **COUNT 2**

#### **(Failure to Provide Tank Release Detection for UST No. 2)**

26. The allegations contained in Paragraphs 13 - 25, above, are incorporated herein by reference.
27. From at least May 2, 2005 until at least June 4, 2005; December 5, 2005 to January 7, 2006; February 6, 2006 to March 4, 2006; to July 31, 2006 to October 7, 2006; April 2, 2007 to May 5 2007; September 3, 2007 to November 3, 2007; July 7, 2008 to August 1, 2008; UST No. 2 has not been monitored in compliance with any of the methods set forth in 20 DCMR § 6003.3 through 6003.5 and/or 20 DCMR §§ 6005 through 6012.
28. Respondent's acts and/or omissions as alleged in Paragraph 27, above, constitute violations of 20 DCMR §§ 6000.1 and 6003.

### **CIVIL PENALTY**

29. 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 **Nine Thousand Five Hundred Dollars (\$9,500.00)**. 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.
30. 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.
31. Respondent shall pay the amount described in Paragraph 29 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-03-2009-0212**;
- 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

- 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: Natalie Pearson (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

- 32. Respondent may also pay the amount described in Paragraph 29, 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  
Tax id. No. = 52-0852695  
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  
Tax Id. No. 52-0852695  
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](http://WWW.PAY.GOV)

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\\_cin.htm](http://www.epa.gov/ocfo/finservices/make_a_payment_cin.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 (3RC30)  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.

**FULL AND FINAL SATISFACTION**

33. 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**

34. 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.
35. 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**

36. 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**

37. 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**

38. 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**


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

For Respondent:

National Park Service - U.S. Department of  
the Interior

7/14/09

Date

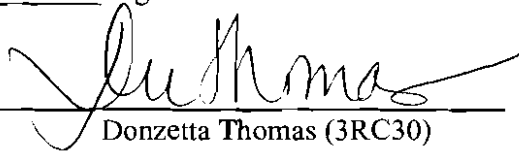
  
by: Gayle Hazelwood, Superintendent  
National Capital Parks-East

For Complainant:

U.S. Environmental Protection Agency,  
Region III

7/21/09


Date

  
Donzetta Thomas (3RC30)  
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.

7/28/09  
Date

By:

  
Abraham Ferdas, Director  
Land and Chemicals Division,  
EPA Region III

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

In the Matter of:	)	
	)	
National Park Service - U.S. Department of the Interior	)	Docket Number: RCRA-3-2009-0212
	)	
National Capital Parks-East	)	Proceeding Under Sections 9006 and
1900 Anacostia Drive, S.E.,	)	9007 of the Resource Conservation and
Washington, D.C. 20020	)	Recovery Act, as amended, 42 U.S.C.
	)	§ 6991e and f.
RESPONDENT,	)	
	)	
	)	
Fort DuPont Maintenance Yard	)	
3600 F Street, SE	)	
Washington, D.C. 20019	)	
	)	
FACILITY.	)	

**FINAL ORDER**


Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, The National Parks Service - U.S. Department of the Interior, 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 Nine Thousand Five Hundred Dollars (\$9,500.00) 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: 8/5/09

  
\_\_\_\_\_  
Renée Sarajian  
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-03-2009-0212, has been 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 Federal Express Overnight to:

Amy L. Horner  
Attorney-Advisor  
U.S. Department of the Interior  
1849 C Street, NW  
MS-3210  
Washington, D.C. 20240

8/7/09  
Date



Donzetta W. Thomas (3RC30)  
Counsel for Complainant  
U.S. Environmental Protection Agency, Region III  
(215) 814-2474

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