

**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)

9-10-09

This form was originated by: L. RAMALHO  
Name of Contact person

~~XXXXXX~~  
Date

in the ORC  
Office

X2681  
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

COMMUNICATIONS WORKERS OF AMERICA

The Total Dollar Amount of Receivable \$ 5,801.00  
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number RCRA-03-2009-0238

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 17, 2009

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

Re: Accounts Receivable  
In the Matter Communications Workers of America  
RCRA-03-2009-0238  
*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**

In the Matter of:	)	
	)	
<b>Communications Workers of America</b>	)	
<b>501 Third Street, NW</b>	)	U.S. EPA Docket Number
<b>Washington, DC 20001</b>	)	RCRA-03-2009-0238
	)	
RESPONDENT,	)	Proceeding Under Section 9006 of the
	)	Resource Conservation and Recovery Act,
	)	as amended, 42 U.S.C. Section 6991e
	)	
<b>Communications Workers of America</b>	)	
<b>501 Third Street, NW</b>	)	
<b>Washington, DC 20001</b>	)	
	)	
FACILITY.	)	

OCT 17 11 21 28

**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 Communications Workers of America ("Respondent"), pursuant to Section 9006 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6991e, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 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 501 Third Street NW, Washington, DC 20001 (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.
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.
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 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.
11. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.
12. 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**

13. 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).
14. At all times relevant to this CAFO, Respondent, Communications Workers of America has been a District of Columbia membership association doing business in the District of Columbia .
15. Respondent is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 20 DCMR § 6899.1.
16. 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 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 501 Third Street, NW, Washington, DC 20001 (the "Facility").
17. On April 17, 2009, an EPA representative conducted a Compliance Evaluation Inspection ("CEI") of the Facility pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.
18. At the time of the April 17, 2009 CEI, and at all times relevant to the applicable violations alleged herein, one UST as described in the following subparagraph, was located at the Facility:

A. A five hundred and fifty (550) gallon fiberglass reinforced plastic tank that was installed in January 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").

19. At all times relevant to the applicable violations alleged herein, the UST has been a "petroleum UST system" and a "existing tank system" as these terms are defined in 20 DCMR § 6899.1.
20. 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 has not been "empty" as that term is defined at 20 DCMR § 6100.7.

#### COUNT 1

(Failure to test cathodic protection system on UST)

21. Paragraphs 1 through 20 of this CAFO are incorporated by reference as if fully set forth herein.
22. 20 DCMR § 5901.1 provides that each owner and operator of a steel UST system or a steel-fiberglass-reinforced plastic composite UST system with corrosion protection shall comply with the requirements of 20 DCMR § 5901 to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances.
23. 20 DCMR § 5901.4 provides that each steel or steel-fiberglass-reinforced plastic composite UST system equipped with a cathodic protection system must be inspected for proper operation by a qualified cathodic protection tester within 6 months of installation and at least once every 3 years thereafter.
24. The UST is and, from October 1, 2004 until April 20, 2009, was a steel-fiberglass-reinforced plastic composite UST system used to store regulated substances and was equipped with "cathodic protection" within the meaning of 20 DCMR § 5901.4.
25. From October 1, 2004 until April 20, 2009 Respondent failed to test the cathodic protection system for the UST at the Facility as required by 20 DCMR § 5901.4.

26. Respondent's act and/or omission as alleged in Paragraph 25, above, constitute violations by Respondent of 20 DCMR § 5901.4.

**CIVIL PENALTY**

27. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty of Five Thousand Eight Hundred and One Dollars (\$5,801.00), which Respondent agrees to pay in accordance with the terms set forth below.
28. The civil penalty of Five Thousand Eight Hundred and One Dollars (\$5,801.00) set forth in Paragraph 27, above, shall be paid in two (2) installments with interest at the rate of three percent (3%) per annum on the outstanding principal balance in accordance with the following schedule:
- a. 1<sup>st</sup> Payment: The first payment in the amount of Two Thousand Nine Hundred Dollars and Fifty Cents (\$2,900.50), consisting of a principal payment of \$2,900.50 and an interest payment of \$0.00, shall be paid within thirty (30) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
  - b. 2<sup>nd</sup> Payment: The second payment in the amount of Two Thousand Nine Hundred Fourteen Dollars and Eighty Cents (\$2,914.80), consisting of a principal payment of \$2,900.50 and an interest payment of \$14.30, shall be paid within sixty (60) days of the date on which this CAFO is mailed or hand-delivered to Respondent.
29. Pursuant to the above schedule, Respondent will remit total principal payments for the civil penalty in the amount of Five Thousand Eight Hundred and One Dollars (\$5,801.00) and total interest payments in the amount of Fourteen Dollars and Thirty Cents (\$14.30).
30. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in Paragraph 28, above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent 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, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described below in the event of any such failure or default.

31. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth in Paragraph 28, above, Respondent may pay the entire civil penalty of Five Thousand Eight Hundred and One Dollars (\$5,801.00) within thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a) as calculated in Paragraph 28, above. In addition, Respondent 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.
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 27 and 28, 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-03-2009-0238 ;
  - 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 (3RC30)  
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.

**OTHER APPLICABLE LAWS**

37. 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**

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

**ENTIRE AGREEMENT**

39. 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**

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

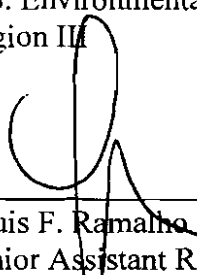
For Respondent:

8/25/09  
Date

Communications Workers of America  
*Union Management Services, Inc Agent*  
*Kristen B. Osborne*  
by: Larry Cohen  
President


For Complainant:

9/9/09  
Date

U.S. Environmental Protection Agency,  
Region III  
  
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.

9/9/09  
Date

  
fo 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: )

**Communications Workers of America** )  
**501 Third Street, N.W. 10th Floor** )  
**Washington, DC 20001** )

RESPONDENT, )

**Communications Workers of America** )  
**502 Third Street, NW** )  
**Washington, DC 20001** )

FACILITY. )

U.S. EPA Docket Number  
RCRA-03-2009-0238

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

FINAL ORDER

SEP 17 PM 2:29

**FINAL ORDER**

Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Communications Works of America, 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 **FIVE-THOUSAND EIGHT HUNDRED ONE DOLLARS (\$5,801.00)** 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:

9/16/09



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

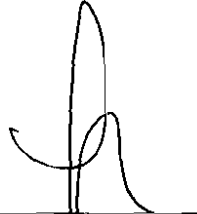
**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the date listed below, the original of the foregoing Consent Agreement and Final Order, Docket No. **RCRA-03-2009-0238** 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:

Kristi Bedois-Sharpe, RPA  
Union Management Services, Inc.  
501 Third Street, N.W. 10th Floor  
Washington, DC 20001

9-17-09

Date



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

9/17/09 11:02:29