

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

OFFICE OF REGIONAL COUNSEL
1000 PENNSYLVANIA AVENUE, NW
PHILADELPHIA, PA 19104-6001
TEL: 215-814-6000
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IN THE MATTER OF:

Consent Agreement and Final Order

Peterson Management L.C.
12500 Fair Lakes Circle, Suite 400
Fairfax, VA 22033

Docket No.: RCRA-03-2011-0065

And

TPC University L.C.
12500 Fair Lakes Circle, Suite 400
Fairfax, VA 22033

Proceeding under Section 9006 of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6991e

And

Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, D.C. 20535-0001

RESPONDENTS,

Northern Virginia Resident Agency
9325 Discovery Blvd.,
Manassas, VA 20186

FACILITY.

CONSENT AGREEMENT

This Consent Agreement is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“Complainant” or “EPA”) and Peterson Management L.C., TPC University L.C., and the Federal Bureau of Investigation (“Respondents”) pursuant to Sections 9006 and 9007 of the Resource Conservation and Recovery Act (“RCRA”), 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 22.18(b)(2) and (3).

This Consent Agreement and Final Order (collectively “CAFO”), resolve violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and the Commonwealth of Virginia’s federally authorized underground storage tank program by Respondents in connection with the underground storage tanks at Respondents’ facility located at 9325 Discovery Blvd., Manassas, VA (the “Facility”).

Effective October 28, 1998, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the Commonwealth of Virginia was granted final authorization to administer a state UST management program in lieu of the Federal underground storage tank management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991i. *See* Virginia; Final Approval of Underground Storage Tank Program, 63 Fed. Reg. 51528-01 (September 28, 1998). The provisions of the Virginia UST management program, through these final authorizations, have become requirements of Subtitle I of RCRA and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. Virginia's authorized UST program regulations are set forth in the Virginia Administrative Code as Underground Storage Tanks: Technical Standards and Corrective Action Requirements ("VA UST Regulations"), 9 VAC § 25-580-10 *et seq.*

GENERAL PROVISIONS

1. For purposes of this proceeding only, Respondents admit the jurisdictional allegations set forth in this CAFO.
2. Respondents neither admit nor deny the specific factual allegations and conclusions of law set forth in this CAFO, except as provided in Paragraph 1, above.
3. Respondents agree not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order or the enforcement of the CAFO.
4. For the purposes of this proceeding only, Respondents hereby expressly waive their right to a hearing on any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order. In addition, the Federal Bureau of Investigation waives its right to confer with the Administrator pursuant to RCRA § 6001(b)(2), 42 U.S.C. § 6961(b)(2).
5. Respondents consent to the issuance of this CAFO, and agree to comply with its terms and conditions.
6. Respondents shall bear their own costs and attorney's fees.
7. The persons signing this Consent Agreement on behalf of Respondents certify to EPA by their signatures herein that Respondents, as of the date of this Consent Agreement, are in compliance with the provisions of RCRA, Subtitle I, 42 U.S.C. §§ 6991-6991m, and the Commonwealth of Virginia's federally authorized underground storage tank program set forth at 9 VAC § 25-580-10 *et seq.* at the Facility referenced herein.
8. The provisions of this CAFO shall be binding upon Respondents, and their officers, directors, employees, successors and assigns.
9. This CAFO shall not relieve Respondents of their 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 or representations made by Respondents to EPA regarding matters at issue in the Complaint are false or, in any material respect, inaccurate. Respondents are aware that the submission of false or misleading information to the United States government may subject Respondents to separate civil or criminal liability.
11. Respondents agree 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 Commonwealth of Virginia 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 LEGAL CONCLUSIONS

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, Peterson Management L.C. and TPC University L.C. (collectively, “Peterson and TPC”) have been Virginia limited liability companies doing business in the Commonwealth of Virginia.
15. At all times relevant to this CAFO, the Federal Bureau of Investigation (“FBI”) has been an agency of the government of the United States.
16. Respondents are “persons” as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 9 VAC § 25-580-10.
17. On March 24, 2010, an EPA representative conducted a Compliance Evaluation Inspection (“CEI”) of the Northern Virginia Resident Agency, located at 9325 Discovery Blvd., Manassas, VA (the “Facility”) pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.
18. At the time of the March 24, 2010 CEI, and at all times relevant to the applicable violations alleged herein, two Underground Storage Tanks (“USTs”), as described in the following paragraphs, were located at the Facility.
19. UST No. 1 is a four thousand (4,000) gallon fiberglass-reinforced-plastic tank that was installed on August 17, 2007.
20. UST No. 2 is a twelve thousand (12,000) gallon fiberglass-reinforced-plastic tank that was installed on September 18, 2007.

21. At all times relevant to the applicable violations alleged herein, USTs Nos. 1 and 2 have been “petroleum UST systems” and “new tank systems” as these terms are defined in 9 VAC § 25-580-10.
22. At all times relevant to the applicable violations alleged herein, USTs Nos. 1 and 2 were used to store “regulated substance(s)” at Respondents’ Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10. and have not been “empty” as that term is defined at 9 VAC § 25-580-310.
23. At all times relevant to this CAFO, TPC University L.C. has been the “owner” and Peterson Management, L.C. has been an “operator” of the USTs at the Facility, as those terms are defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. §§ 6991(3) and (4), and 9 VAC § 25-580-10.
24. Since November 29, 2007, the FBI has been an “operator” of UST No. 2 at the Facility, as that term is defined in Section 9001(3) of RCRA, 42 U.S.C. § 6991(3) , and 9 VAC § 25-580-10.
25. Pursuant to RCRA Section 9005, 42 U.S.C. § 6991d, on March 24, 2010, EPA issued an Information Request to Peterson and TPC concerning the petroleum UST systems at the Facility.
26. Pursuant to RCRA Section 9005, 42 U.S.C. § 6991d, on December 15, 2010, EPA issued an Information Request to the FBI concerning the petroleum UST systems at the Facility.

COUNT # 1

Failure to maintain every record of tank release detection monitoring of UST No. 2 at the Facility from September 18, 2007 to March 24, 2010

27. The allegations of Paragraphs 1 through 26 of the Consent Agreement are incorporated herein by reference.
28. Pursuant to 9 VAC § 25-580-130.A. and C., owners and operators of new and existing UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described therein.
29. 9 VAC § 25-580-140.1 provides, in pertinent part, that USTs shall be monitored at least every 30 days for releases using one of the methods listed in 9 VAC § 25-580-160.4.-8.
30. 9 VAC § 25-580-120.2.c provides in pertinent part, that UST system owners and operators shall maintain information of current compliance with release detection requirements pursuant to 9 VAC § 25-580-180.
31. Pursuant to 9 VAC § 25-580-180, owners and operators of UST systems shall maintain records in accordance with 9 VAC § 25-580-120 demonstrating compliance with all applicable requirements of 9 VAC § 25-580-180. These records must include the following:

- A. Written performance claims pertaining to a release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, shall be maintained for 5 years from the date of installation or as long as the method of release detection is used, whichever is greater;
 - B. The results of any sampling, testing, or monitoring shall be maintained for at least 1 year; and
 - C. Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site shall be maintained for at least 1 year after the service work is completed, and any schedules of required calibration and maintenance provided by the release detection equipment manufacturer shall be retained for 5 years from the date of installation.
- 32. From at least September 18, 2007 until March 24, 2010, Peterson and TPC performed tank release detection for UST No. 2 at the Facility.
 - 33. From at least September 18, 2007 until March 24, 2010, Peterson and TPC failed to maintain every record of tank release detection monitoring for UST No. 2 in accordance with 9 VAC § 25-580-120.2.c. and 9 VAC § 25-580-180.
 - 34. From at least November 29, 2007, until March 24, 2010, the FBI failed to maintain every record of tank release detection monitoring for UST No. 2 in accordance with 9 VAC § 25-580-120.2.c. and 9 VAC § 25-580-180.
 - 35. Respondents' acts or omissions as alleged in Paragraphs 33-34 constitutes a violation by Respondents of 9 VAC § 25-580-120.2.c. and 9 VAC § 25-580-180.

COUNT #2

Failure to maintain every record of piping release detection monitoring of the UST piping at the Facility from September 18, 2007 to March 24, 2010

- 36. The allegations of Paragraphs 1 through 35 of the Consent Agreement are incorporated herein by reference.
- 37. 9 VAC § 25-580-120.2.c provides in pertinent part, that UST system owners and operators shall maintain information of current compliance with release detection requirements pursuant to 9 VAC § 25-580-180.
- 38. From at least September 18, 2007 until March 24, 2010, Peterson and TPC performed piping release detection for UST No. 2 at the Facility.
- 39. From at least September 18, 2007 until March 24, 2010, Peterson and TPC failed to maintain every record of piping release detection monitoring for UST No. 2 in accordance with 9 VAC § 25-580-120.2.c. and 9 VAC § 25-580-180.

40. From at least November 29, 2007 until March 24, 2010, the FBI failed to maintain every record of piping release detection monitoring for UST No. 2 in accordance with 9 VAC § 25-580-120.2.c. and 9 VAC § 25-580-180.
41. Respondents' acts or omissions as alleged in Paragraphs 39-40 constitute a violation by Respondents of 9 VAC § 25-580-120.2.c. and 9 VAC § 25-580-180.

COUNT # 3

Failure to perform annual testing of the automatic line leak detector at the Facility from August 17, 2008 to March 24, 2010.

42. The allegations of Paragraphs 1 through 41 of the Consent Agreement are incorporated herein by reference.
43. Pursuant to 9 VAC § 25-580-130.A. and C., owners and operators of new and existing UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described therein.
44. VAC § 25-580-140.2.a. provides, in pertinent part, that underground piping that conveys regulated substances under pressure shall:
 - A. Be equipped with an automatic line leak detector conducted in accordance with subdivision 1 of 9 VAC § 25-580-170; and
 - B. Have an annual line tightness test conducted in accordance with subdivision 2 of 9 VAC § 25-580-170 or have monthly monitoring conducted in accordance with subdivision 3 of 9 VAC § 25-580-170.
45. 9 VAC § 25-580-170.1 provides, in pertinent part, that an annual test of the operation of the leak detector shall be conducted in accordance with the manufacturer's requirements.
46. From August 17, 2008 to March 25, 2010, only one test was conducted of the automatic line leak detector associated with the piping for USTs Nos. 1 and 2—on March 25, 2010.
47. From August 17, 2008 until March 24, 2010, the piping for USTs Nos. 1 and 2 was underground and routinely conveyed regulated substances under pressure.
48. Respondents failed to perform an annual test of the automatic line leak detector for the underground piping for the USTs from August 17, 2008 until March 24, 2010.
49. Respondents' acts or omissions as alleged in Paragraph 48 constitute a violation by Respondents of 9 VAC § 25-580-140.2.a and 9 VAC § 25-580-170.1.

COUNT #4

Failure to submit the UST notification form within 30 days of bringing USTs Nos. 1 and 2 into existence.

50. The allegations of Paragraphs 1 through 49 of the Consent Agreement are incorporated herein by reference.
51. 9 VAC § 25-580-70.A provides, in pertinent part, that any owner who brings an underground storage tank system into use after May 8, 1986 must within 30 days of bringing such tank into use submit a prescribed form giving notice of the existence of such tank system to the Virginia Department of Environmental Quality.
52. TPC University L.C. brought UST No. 1 into use on August 17, 2007.
53. TPC University L.C. brought UST No. 2 into use on September 18, 2007.
54. TPC University L.C. first submitted the prescribed form giving notice to the Virginia Department of Environmental Quality of the existence of USTs Nos. 1 and 2 on August 31, 2009.
55. TPC University L.C. failed to submit the prescribed form giving notice to the Virginia Department of Environmental Quality of the existence of UST No. 1 within 30 days of bringing UST No. 1 into use on August 17, 2007.
56. TPC University L.C. failed to submit the prescribed form giving notice to the Virginia Department of Environmental Quality of the existence of UST No. 2 within 30 days of bringing UST No. 2 into use on September 18, 2007.
57. TPC University L.C.'s acts or omissions as alleged in Paragraphs 55-56 constitute violations of 9 VAC § 25-580-70.A.

CIVIL PENALTY

58. In settlement of Complainant's claims for civil penalties for the violations alleged in this CA, Respondents agree to pay a civil penalty in the amount of **nineteen thousand, three hundred sixty-two dollars (\$19,362)**. The civil penalty amount is due and payable within seven days of Respondents' receipt of both a true and correct copy of this Consent Agreement signed by all parties and the Final Order signed by the Regional Judicial Officer.
59. The aforesaid settlement amount is based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors provided in RCRA Section 9006(c) - (e), 42 U.S.C. § 6991e(c) - (e), and in accordance with EPA's Penalty Guidance for Violations of UST Regulations ("UST Guidance") dated November 4, 1990. EPA has also considered the Adjustment of Civil Penalties for Inflation as set forth in 40 C.F.R. Part 19 in determining the penalty amount set forth in Paragraph 58.

60. Payment of the civil penalty amount described in Paragraph 58 shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
- A. All payments by Respondents shall reference their name and address, and the Docket Number of this action, RCRA-03-2011-0065;
 - 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: 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. Bank
 - Government Lockbox 979077
 - U.S. EPA, Fines and Penalties
 - 1005 Convention Plaza
 - Mail Station SL-MO-C2-GL
 - St. Louis, MO 63101
 - Contact: 314-418-1028
 - E. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:
 - Cincinnati Finance
 - U.S. EPA, MS-NWD
 - 26 W. M. L. King Drive
 - Cincinnati, OH 45268-0001
 - F. 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"
 - G. 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
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking
Physical Location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

H. Online Payment Option:

WWW.PAY.GOV
Enter sfo 1.1 in the search field. Open and complete the form.
Additional payment guidance is available at:
http://www.epa.gov/ocfo/finservices/make_a_payment.htm

I. Payment by the Respondents shall reference Respondents' names and addresses, and the EPA Docket Number of this CAFO (RCRA-03-2011-0065). A copy of Respondents' check or a copy of Respondents' electronic fund transfer shall be sent simultaneously to:

Wojciech Jankowski
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC50)
1650 Arch Street
Philadelphia, PA 19103-2029
And
Ms. Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

FULL AND FINAL SATISFACTION

61. 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

62. 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. 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 their filing with the Regional Hearing Clerk.

63. Failure to obtain adequate funds or appropriations from Congress does not release FBI 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

64. Nothing in this CAFO shall relieve Respondents of any duties otherwise imposed on it by applicable federal, state or local law or regulations.

AUTHORITY TO BIND THE PARTIES

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

ENTIRE AGREEMENT

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

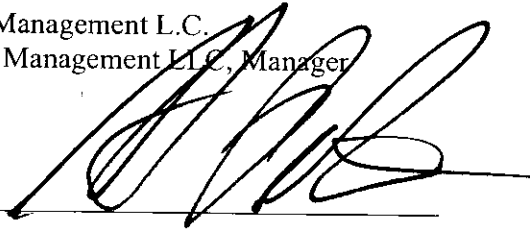
EFFECTIVE DATE

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

For Respondent:

Date May 23, 2011

Peterson Management L.C.
By: MVP Management LLC, Manager

By: 

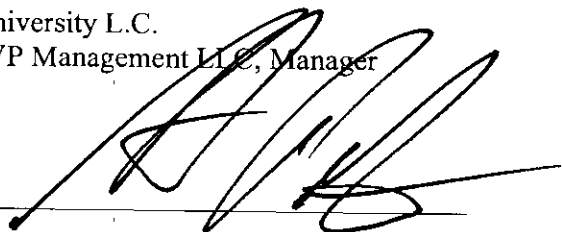
Name: Steven B. Peterson

Title: Manager

For Respondent:

Date May 23, 2011

TPC University L.C.
By: MVP Management LLC, Manager

By: 

Name: Steven B. Peterson

Title: Manager

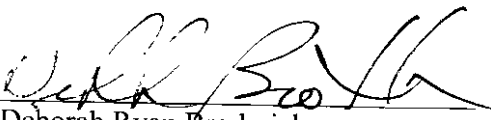
For Respondent:

Date 27 May 2011

Date 5/27/2011

Federal Bureau of Investigation

By: 
Patrick Findlay
Assistant Director
Facilities and Logistics Services Division

By: 
Deborah Ryan Broderick
Section Chief/Chief Contracting Officer
Finance Division

For Complainant:

U.S. Environmental Protection Agency, Region III


Date 6/7/11



Wojciech Jankowski
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.

Date 6/9/11



for Abraham Ferdas
Director, Land and Chemicals Division
U.S. Environmental Protection Agency, Region III

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Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
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RESPONDENTS,

Northern Virginia Resident Agency
9325 Discovery Blvd.,
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FACILITY.

FINAL ORDER

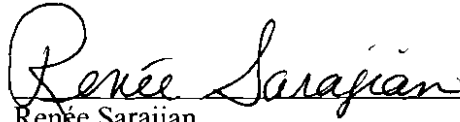
Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondents, Peterson Management L.C., TPC University L.C., and the Federal Bureau of Investigation have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement 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) and (d) of RCRA, 42 U.S.C. § 6991e(c) and (d), IT IS HEREBY ORDERED that Respondents pay a civil penalty of **nineteen thousand, three**

hundred and sixty-two dollars (\$19,362) in accordance with the payment provisions set forth 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 6/20/11



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