

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103**



In the Matter of: :

U.S. Army Garrison, Aberdeen Proving Ground : U.S. EPA Docket No. RCRA-03-2024-0084

6429 Boothby Hill Avenue, Building 4510 : Proceeding under Sections 9006 and 3008(a) and

Aberdeen Proving Ground, : (g) of the Resource Conservation and

Maryland 21005 : Recovery Act, 42 U.S.C.

: Sections 6991e and 6928(a) and (g)

Respondent. :

Aberdeen Proving Ground :

and Edgewood Area :

6429 Boothby Hill Avenue, Building 4510 :

Aberdeen Proving Ground, :

Maryland 21005 :

Facility. :

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 (“Complainant”) and United States Army Garrison, Aberdeen Proving Ground (“Respondent”) (collectively the “Parties”), pursuant to Sections 9006 and 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act (collectively referred to hereinafter as “RCRA”), 42 U.S.C. §§ 6991e and 6928(a) and (g), and 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. Sections 9006 and 3008(a)(1), 42 U.S.C. Section 6991e and 6928(a)(1), authorize the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against

Respondent under RCRA Sections 9006 and 3008(a)(1), 42 U.S.C. §§ 6991e and 6928(a)(1), (or the “Act”) for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. In accordance with Sections 9006(a)(2) and 3008(a)(2) of RCRA, 42 U.S.C. §§ 6991e(a)(2) and 6928(a)(2), EPA has given the Maryland Department of the Environment (“MDE”) notice of the issuance of this Consent Agreement and Final Order.

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing, the right to contest the allegations set forth in this Consent Agreement and Final Order and its right to appeal the accompanying Final Order. Respondent also expressly waives any right to confer with the Administrator pursuant to RCRA Section 6001(b)(2), 42 U.S.C. § 6961(b)(2).
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939g, the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260-266, 268, 270-273, and 279, and the Maryland Hazardous Waste Management Regulations (“Maryland HWMR”) set forth at COMAR Title 26, Subtitle 13, Chapters 1-13, regulate hazardous waste. Effective on February 11, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, EPA granted the State of Maryland final authorization to administer its hazardous waste management program in lieu of the federal hazardous waste management program established under RCRA Subtitle C. Through this final authorization, the provisions of the Maryland HWMR became requirements of RCRA Subtitle C and are therefore enforceable by EPA on and after that date pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). EPA authorized a revised Maryland hazardous waste management program effective July 31, 2001, September 24, 2004, and October 31, 2016. The provisions of the revised federally authorized program have thereby become requirements of RCRA Subtitle C and are enforceable by EPA on and after those dates pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
14. Subtitle I of the RCRA, 42 U.S.C. §§ 6991 – 6991m and regulations set forth at 40 C.F.R. Part 280, regulate underground storage tanks (“USTs”) used to contain regulated substances including, but not limited to, petroleum products (e.g., gasoline and crude oil). Effective on July 30, 1992, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, EPA authorized the State of Maryland to administer an underground storage tank program as set forth at COMAR 26.10.02 *et seq.*, under “TANK MANAGEMENT,” in lieu of the federal underground storage tank management program under RCRA Subtitle I. The provisions of the Maryland underground storage tank management program have therefore become requirements of Subtitle I of RCRA and are enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e.
15. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes EPA to initiate an enforcement action whenever it is determined that a person is in violation of any requirement of RCRA Subtitle C, EPA’s regulations thereunder, or any regulation of a state hazardous waste program which has been authorized by EPA. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil penalty against any person who violates any requirement of Subtitle C of RCRA.
16. Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d), authorizes civil penalties to be assessed against any owner or operator of an UST who fails to comply with, among other things, any requirement or standard of a state program that has been approved pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c for the violations alleged herein.

17. This Consent Agreement and the accompanying Final Order address alleged violations by Respondent of Subtitle C of RCRA, 42 U.S.C. §§ 6921–6939g, its implementing regulations, and the federally-approved Maryland HWMR set forth in COMAR Title 26, Subtitle 13, Chapters 1-13.
18. This Consent Agreement and the accompanying Final Order address alleged violations by Respondent of Subtitle I of RCRA, 42 U.S.C. § 6991-6991m, its implementing regulations at 40 C.F.R. Part 280, and the federally-approved Maryland UST management program regulations set forth in COMAR, Title 26, Subtitle 10 *et seq.*
19. Respondent’s facility, known as the Aberdeen Proving Ground and Edgewood Area (“Facility”), is located in Aberdeen Proving Ground, Maryland 21005 and is further described below.
20. Respondent is and was at the time of the violations alleged herein, the owner and operator of the Facility and conducting operations in the state of Maryland.
21. Respondent is, and at the time of the violations alleged herein, was a “person” as defined in Sections 1004(15) and 9001(5) of RCRA, 42 U.S.C. §§ 6903(15) and 6991(5), in addition to COMAR 26.13.01.03B(61) and COMAR 26.10.02.04B(40).
22. Respondent is, and at the time of the violations alleged herein has been, the “owner” and “operator” of a “facility,” described in Paragraph 24, below, as the terms “facility,” “owner” and “operator” are defined in COMAR 26.13.01.03.B(23), (58), and (59).
23. Respondent is, and at the time of the violations alleged herein has been, the “operator” and/or “owner” of “USTs” and “UST systems,” as defined in Sections 9001(3), (4) and (10) of RCRA, 42, U.S.C. § 6991(3), (4), and (10); and COMAR § 26.10.02.04B(37), (39), (64) and (66).
24. Respondent’s Facility employs roughly 1,000 military personnel, more than 19,500 civilian workers, and 3,000 contract employees. Aberdeen Proving Ground was established in 1917 and incorporated the Edgewood Area in 1971. The Facility is presently a combined 114 square miles located on two peninsulas separated by the Bush River.
25. The main mission of the Facility is to provide test and test support services on an expansive array of military technologies, weapons, materials, and equipment.
26. The Directorate of Public Works oversees the maintenance, infrastructure, and environment of the Facility, and supports tenant activities within the Facility.
27. Respondent is an active large quantity generator of hazardous waste under COMAR 26.13.02.05 and maintains a permitted Treatment, Storage, and Disposal Facility (“TSDF”) (Permit Number MD3210021355) pursuant to COMAR § 26.13.07.01.

28. Respondent is and, at all times relevant to this Consent Agreement and Final Order, was a large quantity generator of hazardous waste as defined under 40 C.F.R. § 262.10.
29. At all times relevant to the allegations set forth in this Consent Agreement, and as described below, the Respondent is, and has been, a “generator” of “solid waste” and “hazardous waste” at the Facility, as these terms are defined in COMAR 26.13.01.03(29), COMAR 26.13.01.03(73) and COMAR 26.13.01.03(31) respectively, and as the terms “solid waste” and “hazardous waste” are further defined in COMAR 26.13.02 and COMAR 26.13.03 respectively.
30. Respondent’s Facility generates and manages waste military munitions as part of its research, development, test, and evaluation activities.
31. Respondent’s Facility conducts open-burn/open-detonation at the APG Old Bombing Field and the Aberdeen Test Center, engages in eight waste generating activities with the largest share attributable to laboratories, maintains twelve 90-Day Hazardous Waste Storage Areas and over three-hundred Satellite Accumulation Areas, and generates large quantities of Universal Wastes.
32. Respondent’s Facility houses hazardous waste storage tanks along with a Chemical Transfer Facility for the storage of chemical agent-related hazardous wastes.
33. Respondent maintains thirty-one (31) USTs which are used to store regulated substances. Diesel and gasoline USTs at the Facility are constructed of either fiberglass reinforced plastic or steel and equipped with flexible plastic or steel piping.
34. From August 30, 2021, through September 2, 2021, EPA conducted a series of unannounced Compliance Evaluation Inspections (“CEI”) at the Aberdeen Proving Ground and Edgewood Area to examine the Respondent’s compliance with RCRA, the Maryland HWMR and the Maryland UST Program.
35. On October 17, 2023, EPA sent a Notice of Potential Violations and Opportunity to Confer (“NOPVOC”) letter to Respondent advising it of EPA’s preliminary findings of violations at the Facility and offering the Respondent an opportunity to provide such additional information as it believed the Agency should review and consider before reaching any final conclusions as to the Respondent’s compliance with RCRA, the Maryland HWMR, and the Maryland UST Program.
36. On the basis of EPA’s findings during the CEIs and Respondent’s response to EPA’s NOPVOC letter, EPA alleges that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, RCRA Subtitle I, 42 U.S.C. § 6991 *et seq.*, the Maryland HWMR, and the Maryland UST Program.

Count 1

Failure to Repair or Reseal Damaged Containment Surfaces

37. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
38. Pursuant to the terms of Respondent's TSDF Permit Number MD3210021355 at Section IV(C)(4)(c), the Facility is required to repair or reseal containment surfaces to ensure compliance with the specifications of COMAR 26.13.05.09(H)(1)(a), which requires that containment systems be free of cracks or gaps and remain sufficiently impervious to leaks, spills, and accumulated rainfall.
39. On August 31, 2021, EPA officials performed a walk-through inspection of Respondent's permitted TSDF, which consisted of two buildings, each containing eight rooms used for hazardous waste storage. In Building E5866, Room 1 – designated as acid storage – EPA officials observed a section of the floor that appeared to be damaged.
40. At the time of inspection, Respondent failed to properly maintain containment surfaces in its permitted TSDF in accordance with Permit Number MD3210021355 and COMAR 26.13.05.09(H)(1)(a).
41. By failing to comply with Permit Number MD3210021355 and COMAR 26.13.05.09(H)(1)(a), Respondent violated Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), and is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count 2

Failure to Keep Hazardous Waste Containers Closed

42. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
43. Pursuant to COMAR § 26.13.05.09(D), owners and operators of hazardous waste facilities must ensure all hazardous waste containers remain closed during storage except when necessary to add or remove waste.
44. On August 31, 2021, EPA officials performed a walk-through inspection of Respondent's Development Command, Control, Computers, Communications, Cyber, Intelligence, Surveillance and Reconnaissance Center where the Facility maintains satellite accumulation areas for hazardous waste generated during research, development, and fabrication activities. In a location designated the "Threat Lab," which is outside the area covered by Respondent's TSDF permit, EPA officials observed an open five-gallon bucket containing isopropanol and solder flux mix, a D001 hazardous waste, within a waste storage cabinet.

45. At the time of inspection, Respondent failed to keep hazardous waste containers closed during storage in accordance with COMAR § 26.13.05.09(D).
46. By failing to comply with COMAR § 26.13.05.09(D), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count 3

Failure to Perform Annual Tests of Line Leak Detectors

47. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
48. Pursuant to COMAR § 26.10.05.02(C)(2), all owners and operators of UST systems utilizing pressurized piping must install an automatic line leak detector (“LLD”), and COMAR § 26.10.05.05(B) requires that LLD must be tested for functionality annually.
49. On August 31, 2021, EPA officials performed an onsite inspection of Respondent’s UST system located at the Army and Air Force Exchange Service fueling station. In the course of this inspection, EPA officials requested annual testing reports for three, 10,000-gallon USTs containing gasohol – identified as tanks 83, 84, and 85 on page 5 of the Inspection Report. EPA officials observed, and Facility personnel confirmed in a later written follow-up, that annual LLD testing for the three referenced USTs was last performed on April 19, 2018 and was not performed again until December 19, 2022.
50. Based on EPA’s observations at the time of inspection and Respondent’s follow-up correspondence, Respondent failed to comply with COMAR § 26.10.05.05(B) by not performing annual line leak detection testing for three USTs in 2019, 2020, and 2021, and performing testing late in 2022.
51. In failing to comply with COMAR § 26.10.05.05(B), Respondent is subject to the assessment of penalties under Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d).

Count 4

Failure to Perform Annual Tests of Line Leak Detectors

52. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
53. Pursuant to COMAR § 26.10.05.02(C)(2), all owners and operators of UST systems utilizing pressurized piping must install an automatic line leak detector (“LLD”), and COMAR § 26.10.05.05(B) requires that LLD must be tested for functionality annually.
54. On September 1, 2021, EPA officials performed an onsite inspection of Respondent’s UST system located at the Gunpowder Neck Marina in Edgewood. In the course of this inspection, EPA officials requested annual testing reports for one, 2,500-gallon UST

containing gasoline— identified as tank 29 on page 8 of the Inspection Report. EPA officials observed, and Facility personnel confirmed in a later written follow-up, that annual LLD testing for the single referenced UST was performed on May 7, 2020, but subsequent tests did not occur again until September 15, 2021 and December 20, 2022.

55. Based on EPA’s observations at the time of inspection and Respondent’s follow-up correspondence, Respondent failed to comply with COMAR § 26.10.05.05(B) by performing required LLD testing late by approximately four months in 2021 and three months in 2022.
56. In failing to comply with COMAR § 26.10.05.05(B), Respondent is subject to the assessment of penalties under Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d).

Count 5

Failure to Perform Required Release Detection

57. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
58. Pursuant to COMAR § 26.10.05.02(B), all owners and operators of an UST system must monitor the UST system for releases of a regulated substance at least every thirty days.
59. On August 31, 2021, EPA officials performed an onsite inspection of Respondent’s UST system located at the Philips Airfield. In the course of this inspection, EPA officials requested records from Respondent containing release detection reports for one, 25,000-gallon UST containing jet fuel – identified as tank 5 on page 6 of the Inspection Report. EPA officials observed that the records indicated the following: monthly release detection monitoring occurred on July 31, 2020, but did not occur again until October 1, 2020 (sixty-two days between monitoring); monthly release detection monitoring occurred on November 2, 2020, but did not occur again until January 4, 2021 (sixty-three days between monitoring); monthly release detection monitoring occurred on January 11, 2021, but did not occur again until March 22, 2021 (seventy days between monitoring); monthly release detection monitoring occurred on March 22, 2021, but did not occur again until May 24, 2021 (sixty-three days between monitoring); and monthly release detection monitoring occurred on May 24, 2021, but did not occur again until July 1, 2021 (thirty-eight days between monitoring).
60. Based on EPA’s observations at the time of inspection and Respondent’s follow-up correspondence, Respondent failed to comply with COMAR § 26.10.05.02(B) by performing required released detection late during the periods specified in Paragraph 59.
61. In failing to comply with COMAR § 26.10.05.02(B), Respondent is subject to the assessment of penalties under Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d).

Count 6
Failure to Maintain Release Detection Records

62. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
63. Pursuant to COMAR § 26.10.05.02(B), all owners and operators of an UST system must monitor the UST system for releases of a regulated substance at least every thirty days.
64. Pursuant to COMAR § 26.10.05.06, all owners and operators of UST systems are required to maintain release detection monitoring records at regulated facilities for a one-year period.
65. On September 2, 2021, EPA officials performed a walk-through inspection of Respondent's UST system located at the Weide Airfield in the Edgewood area. In the course of this inspection, EPA officials requested records from Respondent containing release detection reports for two, 20,000-gallon USTs containing jet fuel— identified as tank 33 and tank 34 on page 8 of the Inspection Report. EPA officials observed, and Facility personnel confirmed in a later written follow-up, that release detection monitoring records for the referenced USTs were not maintained between August 30, 2020 through November 25, 2020 and June 5, 2021 through September 28, 2021.
66. Based on EPA's observations at the time of inspection and Respondent's follow-up correspondence, Respondent failed to comply with COMAR § 26.10.05.06 by not maintaining release detection records during the periods specified in Paragraph 64.
67. In failing to comply with COMAR § 26.10.05.06, Respondent is subject to the assessment of penalties under Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d).

CIVIL PENALTY

68. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **eighty-two thousand five-hundred twenty-eight dollars (\$82,528)**, which Respondent shall be liable to pay in accordance with the terms set forth below. Respondent must pay the civil penalty no later than **THIRTY (30)** calendar days from the effective date of this Consent Agreement and Final Order.
69. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 3008(a)(3) and Section 9006(c) of RCRA, 42 U.S.C. § 6928(a)(3) and U.S.C. § 6991e(c) and (e), including the following, the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October 1990 RCRA Civil Penalty Policy, as revised in June 2003 and May 2020, and EPA's November 1990 U.S. E.P.A. Penalty Guidance for Violations of UST Regulations, as revised in October 2023 and February

2024, which reflect the statutory penalty criteria and factors set forth at RCRA Sections 3008(a)(3) and (g) and Section 9006(c), 42 U.S.C. §§ 6982(a)(3) and (g), and U.S.C. § 6991e(c) and (e), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

70. Payment of the civil penalty amount shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, i.e., EPA Docket No. RCRA-03-2024-0084;
 - b. All checks shall be made payable to the "United States Treasury";
 - c. Respondent shall pay the assessed penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
 - d. Respondent's Treasury Account Symbol is 21 42020.0000. Inquiries concerning this payment may be made to Ms. Devon Goss, who may be contacted at devon.l.goss.civ@army.mil or (410) 278-4180.
 - e. Payment may be made using the Intra Governmental Payment and Collection application (IPAC), **Agency Location Code 68-01-0727**, and Respondent's Treasury Account Symbol 21 42020.0000. Please include the Docket Number of this action (EPA Docket No. RCRA-03-2024-0084) in the description field of the IPAC.
 - f. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously email to:

Manuel Ronquillo, Chief
Water and Waste Enforcement Branch/ORC (3RC40)
U.S. EPA, Region 3
Philadelphia, PA 19103
ronquillo.manuel@epa.gov

and

U.S. EPA Region 3 Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov

71. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
72. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
73. The parties consent to service of the Final Order by e-mail at the following valid email addresses: ronquillo.manuel@epa.gov for Complainant, and jennifer.ivanowski.civ@army.mil for Respondent.

GENERAL SETTLEMENT CONDITIONS

74. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information, or information which may adversely affect national security.
75. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

76. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

77. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA’s authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of RCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

78. This Consent Agreement and Final Order resolves only EPA’s claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. 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. 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, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

ANTIDEFICIENCY ACT

79. Respondent shall seek all existing funds to meet the requirements of this Consent Agreement and Final Order. 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 Consent Agreement and Final Order. Nothing in this Consent Agreement and Final Order shall be interpreted to require obligation or payment of funds in violation of the Antideficiency Act, 31 U.S.C. § 1341.

EXECUTION / PARTIES BOUND

80. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assignees of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

81. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region 3, or his/her designee,

the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

82. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: U.S. Army Garrison Aberdeen Proving Ground

Date: _____

By: _____

COL PHILIP J. MUNDWEIL
Garrison Commander

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: _____
[Digital Signature and Date]
Karen Melvin, Director
Enforcement and Compliance Assurance Division
U.S. EPA – Region 3
Complainant

Attorney for Complainant:

By: _____
[Digital Signature and Date]
Manuel Ronquillo, Chief
Water and Waste Enforcement Branch/ORC
U.S. EPA, Region 3
ronquillo.manuel@epa.gov

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

FILED

Aug 21, 2024

12:09 pm

U.S. EPA REGION 3
HEARING CLERK

In the Matter of: :
: :
U.S. Army Garrison, Aberdeen Proving : U.S. EPA Docket No. RCRA-03-2024-0084
Ground : :
6429 Boothby Hill Avenue, Building 4510 : Proceeding under Sections 9006 and 3008(a) and
Aberdeen Proving Ground, : (g) of the Resource Conservation and
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: :
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and Edgewood Area : :
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Aberdeen Proving Ground, : :
Maryland 21005 : :
: :
Facility. : :

FINAL ORDER

Complainant, the Director of the Director, Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3, and Respondent, United States Army Garrison, Aberdeen Proving Ground, 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 (with specific reference to Sections 22.13 (b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's October 1990 RCRA Civil Penalty Policy, as revised in June 2003 and May 2020, and EPA's November 1990 U.S. E.P.A. Penalty Guidance for Violations of UST Regulations, as revised in October 2023 and February 2024, which reflect the statutory penalty criteria and factors set forth at RCRA Sections 3008(a)(3) and (g) and Section 9006(c), 42 U.S.C. §§ 6982(a)(3) and (g), and U.S.C. § 6991e(c) and (e).

NOW, THEREFORE, PURSUANT TO Section 3008(a) and (g) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a) and (g), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **eighty-two thousand five-hundred twenty-eight dollars (\$82,528)**, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent’s obligation to comply with all applicable provisions of RCRA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: _____

By: _____

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	
U.S. Army Garrison, Aberdeen Proving Ground	:	U.S. EPA Docket No. RCRA-03-2024-0084
6429 Boothby Hill Avenue, Building 4510	:	Proceeding under Sections 9006 and 3008(a) and
Aberdeen Proving Ground,	:	(g) of the Resource Conservation and
Maryland 21005	:	Recovery Act, 42 U.S.C.
	:	Sections 6991e and 6928(a) and (g)
	:	
	:	
Respondent.	:	
	:	
Aberdeen Proving Ground	:	
and Edgewood Area	:	
6429 Boothby Hill Avenue, Building 4510	:	
Aberdeen Proving Ground,	:	
Maryland 21005	:	
	:	
	:	
Facility.	:	

CERTIFICATE OF SERVICE

I certify that the foregoing ***Consent Agreement and Final Order*** was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the ***Consent Agreement and Final Order***. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

COL Philip J. Mundweil, Commander
U.S. Army Garrison, Aberdeen Proving Ground
Philip.j.mundweil.mil@army.mil

Jennifer Ivanowski
ALC-APG
jennifer.ivanowski.civ@army.mil

Manuel Ronquillo, Chief
Water and Waste Enforcement Branch/ORC

Andrew Ma
Physical Scientist

U.S. EPA, Region 3
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U.S. EPA, Region 3
ma.andrew@epa.gov

[Digital Signature and Date]
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 3