IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA, Plaintiff, v. TOTAL PETROLEUM PUERTO RICO CORP., Defendant.	)	CIVIL ACTION NO.

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CONSENT DECREE

Plaintiff United States of America, on behalf of the United States Environmental Protection Agency ("EPA"), has filed a Complaint in this action, concurrently with this Consent Decree, against Defendant TOTAL PETROLEUM PUERTO RICO CORP. (hereinafter "Defendant" or "Total") to obtain injunctive relief and assessment of civil penalties for violations of the Solid Waste Disposal Act, as amended (commonly referred to as the Resource Conservation and Recovery Act), 42 U.S.C. Section 6991 *et seq.* (hereinafter the "Act" or "RCRA"), the federally approved and enforceable Puerto Rico Underground Storage Tank Regulations ("PRUSTR") and the federal underground storage tank regulations codified in Part 280 of Title 40 of the Code of Federal Regulations ("C.F.R."), regarding numerous "underground storage tanks" or "USTs" and "UST systems" that have been or are owned and/or operated by the Defendant at the Facilities in the Commonwealth of Puerto Rico ("Puerto Rico") and the Territory of the United States Virgin Islands ("Virgin Islands").

A. The Complaint alleges that Defendant at the Facilities has failed to satisfy numerous requirements mandated by Subtitle I of RCRA and either the PRUSTR in Puerto Rico or 40 C.F.R. Part 280 in the Virgin Islands, including Defendant's failure to meet its legal obligation to: (1) report suspected releases; (2) investigate suspected releases; (3) provide release detection for USTs; (4) provide release detection for pressurized piping; (5) provide release detection for USTs in temporary closure; (6) maintain and provide release detection records; (7) maintain and provide records of annual tests of annual line leak detection ("ALLD") equipment; (8) operate and maintain corrosion protection equipment; (9) provide properly calibrated overfill protection equipment; (10) secure USTs in temporary closure; and (11) secure vapor and/or groundwater monitoring wells.

B. Defendant admits that it has owned or owns UST systems at the Facilities that are the subject of the Complaint and the Consent Decree in this action, and represents that as a fuel wholesaler and/or distributor, it is generally prohibited in Puerto Rico from operating the Facilities under Puerto Rico's Act No. 3 of March 21, 1978, as amended, 23 L.P.RA. Sections 1102 and 1104a.

C. Defendant does not admit any liability to the United States arising out of the transactions or occurrences alleged in the Complaint.

D. The Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and will avoid litigation between the Parties and that this Consent Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided in Section I below, and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and Section 9006(a)(1) of RCRA, 42 U.S.C. § 6991e(a)(1), and over the Parties.

2. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1395 because the Defendant is located in this district and a substantial part of the events or omissions giving rise to this action occurred in this district.

3. For purposes of this Consent Decree, or any action to enforce this Consent Decree, Defendant consents to the Court's jurisdiction over this Consent Decree and over any such action and over Defendant, and consents to venue in this judicial district.

4. For purposes of this Consent Decree, Defendant agrees that the Complaint states claims upon which relief may be granted pursuant to Section 9006 of RCRA, 42 U.S.C. Section 6991e.

II. APPLICABILITY

5. The obligations of this Consent Decree apply to and are binding upon the United States, and upon Defendant and any successors, successor affiliates, subsidiaries, assigns, or other entities or persons otherwise bound by law, except as provided by Paragraph 6.

6. No transfer of ownership or operation of the UST systems at the Facilities, whether in compliance with the procedures of this Paragraph or otherwise, shall relieve Defendant of its obligation to ensure that the terms of the Consent Decree are implemented by Defendant, except as otherwise provided in subsection (a) below. Any transfer of ownership or operation of the UST systems at a Facility to any other person must be conditioned upon the transferee's agreement to allow Defendant access to the Facility so it may continue to undertake the obligations required by this Consent Decree until its termination or until transfer of ownership or operation of the UST systems at a Facility in accordance with subsection (a) below, as provided in a written agreement regarding the transfer of the UST systems between the Defendant and the transferee.

a. Notwithstanding the provisions of Paragraph 6 above, Defendant shall be released from its obligations under this Consent Decree (except for the obligations to

retain records for the period prior to transfer pursuant to Paragraph 67 and to perform the Supplemental Environmental Project set forth in Section VI for the Facility) provided that:

(i) Any transfer of ownership or operation of the UST systems at a Facility to any other person shall be conditioned upon the transferee's express written agreement regarding the UST systems to specifically assume and undertake the obligations required by this Consent Decree (except for the obligations to retain records for the period prior to transfer pursuant to Paragraph 67 and to perform the Supplemental Environmental Project set forth in Section VI for the Facility), and that such written agreement between the Defendant and the proposed transferee shall be enforceable by the United States as a third party beneficiary of such agreement;

(ii) At least thirty (30) Days prior to such a transfer (to the extent reasonably possible given the circumstances, but in any event no later than 15 days prior to that date), Defendant shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide written notice of the prospective transfer, together with a copy of the proposed written agreement regarding the UST systems, to EPA Region 2, the United States Attorney for the District of Puerto Rico, and the United States Department of Justice, in accordance with Section XIV (Notices);

(iii) No later than five (5) business days after the execution or completion of such transfer, Defendant shall provide an executed copy of the written agreement regarding the UST systems to the United States, in accordance with Section XIV (Notices);

(iv) Defendant within the two (2) months prior to the expected date of the transfer shall perform tank and line tightness testing to ensure that there are no leaking components in the UST system, and to the extent that any component of the UST system is determined to be inadequate, Defendant shall repair, upgrade or permanently close the UST system component (as

appropriate) in accordance with applicable regulations, including the regulations requiring performance of a site assessment and any necessary corrective action(s);

(v) Defendant shall take all necessary corrective action(s), in compliance with applicable regulations and in coordination with the implementing agency, should evidence of a release from a UST system be indicated by either routine release detection monitoring, tightness tests, or any other evidence indicating that a release may have occurred, or by the site assessment performed as part of closure;

(vi) Where the facility to be transferred is still to be one of the Facilities subject to Section VI (Supplemental Environmental Project), Defendant shall prior to transfer complete any upgrade of the release detection systems required pursuant to Section V (Compliance Requirements), Paragraph 14 (a) through (d), to allow the successful functioning of the centralized monitoring system, and shall as part of the transfer retain the right to obtain access to the UST systems for purposes related to performing the Supplemental Environmental Project until termination of the Consent Decree;

(vii) Defendant shall demonstrate that the proposed transferee has secured before the transfer financial assurance in accordance with the regulations applicable to owners/operators of USTs;

(viii) Defendant shall demonstrate that the proposed transferee has satisfied before the transfer any regulations governing operator training applicable to owners/operators of USTs; and

(ix) Defendant shall certify that to the best of its knowledge and belief after reasonable inquiry, there are no continuing releases or threats of releases at the Facility and that any prior spills have either been remediated or are in the process of remediation and will be

completed by Defendant in compliance with applicable regulations and in coordination with the implementing agency.

Any attempt to transfer ownership or operation of the UST systems at a Facility without complying with this Paragraph constitutes a violation of this Consent Decree.

7. Defendant shall provide a copy of this Consent Decree to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Decree, as well as to any contractor and subcontractor whose duties include performing Work required under this Consent Decree. Defendant shall condition any such contract upon performance of the Work in conformity with the terms of this Consent Decree.

8. In any action to enforce this Consent Decree, Defendant shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

III. DEFINITIONS

9. Terms used in this Consent Decree that are defined in the Act or applicable regulations shall have the meanings assigned to them in the Act or such regulations, unless otherwise provided in this Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

a. "Complaint" shall mean the complaint filed by the United States in this action;

b. "Consent Decree" or "Decree" shall mean this Decree and all appendices attached hereto;

c. "Date of Lodging" shall mean the date on which this Decree is filed with the Court, as recorded on the Court's docket;

d. "Day" shall mean a calendar day unless expressly stated to be a business day. In computing any period of time under this Decree, where the last day would fall on a Saturday, Sunday, or federal or State holiday, the period shall run until the close of business of the next business day; a State holiday in Puerto Rico shall apply only to Facilities in Puerto Rico, and a State holiday in the Virgin Islands shall apply only to Facilities in the Virgin Islands.

e. "Defendant" shall mean TOTAL PETROLEUM PUERTO RICO CORP.;

f. "EPA" shall mean the United States Environmental Protection Agency and any of its successor departments or agencies;

g. "Effective Date" shall have the definition provided in Section XV (Effective Date);

h. "EQB" shall mean the Puerto Rico Environmental Quality Board;

i. "Facility" or "Facilities" shall mean the retail gasoline service stations containing underground storage tank(s) ("UST(s)"), individually or collectively, owned and/or operated by Defendant and located in either Puerto Rico or the Virgin Islands. The Facilities are listed in Appendix A;

j. "Paragraph" shall mean a portion of this Decree identified by an arabic numeral;

k. "Parties" shall mean the United States and Defendant;

l. "Released Facilities" shall mean retail gasoline service stations in Puerto Rico or the Virgin Islands containing UST(s) owned and/or operated at one time by Defendant that are the subject of the filed Complaint, and for which the United States' claims against these stations for violations of Section I of RCRA and its implementing regulations, are

resolved under Section XII of this Consent Decree. The Released Facilities are listed in Appendix B;

m. "Section" shall mean a portion of this Decree identified by a roman numeral;

n. "State" shall mean Puerto Rico or the Virgin Islands;

o. "United States" shall mean the United States of America, acting on behalf of EPA;

p. "USTs" shall mean underground storage tanks as defined by the Act and its implementing regulations;

q. "UST systems" shall mean a tank, or a combination of tanks, connected piping, and any ancillary equipment as defined by the Act and its implementing regulations;

r. "Vendor" shall mean any contractor or subcontractor whose duties include performing any Work required under this Consent Decree; and

s. "Work" shall mean all of the obligations set forth in Section V (Compliance Requirements) and Section VI (Supplemental Environmental Projects).

IV. CIVIL PENALTY

10. Within sixty (60) Days after the Effective Date, Defendant shall pay the sum of $426,000 as a civil penalty, together with interest thereon accruing from the date on which the Decree is lodged with the Court, at the rate specified in 28 U.S.C. § 1961 as of the Date of Lodging.

11. Defendant shall pay the civil penalty due at https://www.pay.gov to the U.S. Department of Justice account, in accordance with instructions provided to Defendant by

the Financial Litigation Unit ("FLU") of the United States Attorney's Office for the District of Puerto Rico, after the Effective Date. The payment instructions provided by the FLU shall include a Consolidated Debt Collection System ("CDCS") number, which Defendant shall use to identify all payments required to be made in accordance with this Decree. The FLU will provide the payment instructions to:

Mr. Philippe Jaurrey
General Manager
Total Petroleum Puerto Rico Corp.
Santander Tower
Tabonuco Street B-7, Suite 1508
Guaynabo, Puerto Rico 00968

on behalf of Defendant, with a copy to Defendant pursuant to Section XIV(Notices). Defendant may change the individual to receive payment instructions on its behalf by providing written notice of such change to the United States and EPA in accordance with Section XIV (Notices). At the time of payment, Defendant shall send notice that payment has been made: (i) to EPA via email at acctsreceivable.cinwd@epa.gov or via regular mail at EPA Cincinnati Finance Office, 26 Martin Luther King Drive, Cincinnati, Ohio 45268; and (ii) to the United States via email or regular mail in accordance with Section XIV; and (iii) to EPA Region 2 in accordance with Section XIV. Such notice shall reference the CDCS number and DOJ case number 90-7-1-10435.

12. Defendant shall not deduct any penalties paid under this Decree pursuant to this Section or Section VIII (Stipulated Penalties) in calculating its federal income tax.

V. COMPLIANCE REQUIREMENTS

13. Defendant shall, as of the Date of Lodging, comply with all requirements of RCRA, the PRUSTR and 40 C.F.R. Part 280, as applicable, alleged to have been violated with

respect to all UST systems in the Facilities in Puerto Rico and the Virgin Islands. These requirements include, without limitation, Defendant's legal obligations to: (1) report suspected releases; (2) investigate suspected releases; (3) provide release detection for USTs; (4) provide release detection for pressurized piping; (5) provide release detection for USTs in temporary closure; (6) maintain and provide release detection records; (7) maintain and provide records of annual tests of ALLD equipment; (8) operate and maintain corrosion protection equipment; (9) provide properly calibrated overfill protection equipment; (10) secure USTs in temporary closure; and (11) secure vapor and/or groundwater monitoring wells.

14. The provisions of this Section apply to Facilities with UST systems subject to release detection. (Release detection is not required when all the UST systems at a Facility are temporarily closed and empty pursuant to PRUSTR 701 and 40 C.F.R. 280.70, or permanently closed pursuant to PRUSTR 702 and 40 C.F.R. 280.71). Defendant shall:

a) at all such Facilities, cease using groundwater or vapor monitoring as exclusive or primary methods of release detection for tanks and piping no later than nine (9) months after the Date of Lodging (prior to this date, Total may use any release detection option permitted in Puerto Rico under PRUSTR and in the Virgin Islands under 40 C.F.R. Part 280 as the primary method of release detection);

b) at all such Facilities, install or have already installed a fully automated release detection system, manufactured by Veeder-Root or a similar type of entity (the "Vendor"), which includes automatic tank gauging for single wall tanks, interstitial monitoring for double wall tanks, and electronic line leak detectors for any pressurized piping or American-type suction piping on UST systems, according to the schedules for completion of installation in subparagraphs (c) and (d) below. This fully automated release detection system will serve as

Defendant's primary method of release detection for the tanks and pressurized piping or American-type suction piping associated with the UST systems for all such Facilities.

c) at the Aguadilla Facility (PBL 304124), complete the transition to a fully automated release detection system by no later than three (3) months after the Date of Lodging;

d) at all other such Facilities, complete the transition to a fully automated release detection system by no later than nine (9) months after the Date of Lodging;

e) at all such Facilities, operate the automated release detection systems referenced in subparagraph 14(b) above for a minimum of three (3) years from the date that the systems are installed pursuant to subparagraphs (c) and (d) above or from the Date of Lodging if any such system is already installed and operating at any Facilities. The automated release detection systems shall log and store all alarms, including those arising from potential or suspected releases, spill or overfill of tanks, malfunction/failure of components, and disconnection of components. The Defendant shall no later than sixty (60) days after the Date of Lodging, provide a report to the persons identified in Section IX (Notices) identifying those Facilities at which such a system was installed prior to the Date of Lodging and is currently operating as the primary means of release detection;

f) for all such Facilities, provide summaries of the information gathered by the automated release detection systems pursuant to subparagraph 14(e) above in quarterly reports to EPA pursuant to Section VII (Reporting Requirements), Paragraph 33(a). Upon EPA's request, the Defendant shall provide any information in its possession obtained or reported by the above-described monitoring system. In addition, Defendant's contract with the

Vendor shall require that, upon EPA's request, the Vendor shall also provide any information in its possession obtained or reported by the above-described monitoring system.

g) on March 30, 2016, Defendant shall provide a written certification of its compliance with all applicable release detection requirements for both tanks and piping at all such Facilities for the last quarter of 2015 (*i.e.*, October to December 2015). This written certification shall state as follows:

> "Except with regard to any exceptions described below, Total certifies that to the best of its knowledge and belief after reasonable inquiry, it operated the release detection systems for both tanks and piping at the Facilities in compliance with the Consent Decree entered in *United States v. Total Petroleum Puerto Rico Corp.* [insert Civil Action number] during the last quarter of 2015."

h) beginning on March 30, 2017, Defendant shall provide a written certification of its compliance with all applicable release detection requirements for both tanks and piping at all such Facilities during the prior calendar year. This written certification shall state as follows:

> "Except with regard to any exceptions described below, Total certifies that to the best of its knowledge and belief after reasonable inquiry, it operated the release detection systems for both tanks and piping at the Facilities in compliance with the Consent Decree entered in *United States v. Total Petroleum Puerto Rico Corp.* [insert Civil Action number] during the prior calendar year."

This written certification shall be submitted thereafter on an annual basis for each year this Decree is in effect until termination of this Decree.

i) The certifications provided pursuant to subparagraphs (g) and (h) shall also include the certification language set forth in Paragraph 36. At the time of the certification, if there is an instance(s) of non-compliance or where release detection records indicate a suspected release(s) or release(s) has occurred, Defendant shall notify EPA, according

to Section XIV (Notices), concerning any instance(s) of non-compliance or where release detection records indicate a suspected release(s) or release(s) has occurred. Defendant shall maintain records of release detection at the Facilities or readily available at a centralized location and shall make such records available upon any EPA or State request. Nothing in this subparagraph shall release Defendant from its obligation to comply with Rule 501 of the PRUSTR or 40 C.F.R. Section 280.50 and any applicable regulations which require owners and operators to report to the implementing agency within twenty-four (24) hours any release(s) or suspected release(s) of regulated substances at an UST site or the surrounding area; and

j) ensure that the contract between the Vendor and Defendant provides that the Vendor maintain all records generated pursuant to subparagraph 14(e) above for a minimum of five (5) years after the termination of this Decree, and that the Vendor shall provide such records to EPA upon request. Nothing in this subparagraph shall release Defendant from its obligation to comply with any applicable regulations under the PRUSTR or 40 C.F.R. Part 280 that require Defendant to maintain records.

15. Defendant certifies by signing this Decree that to the best of its knowledge and belief after reasonable inquiry, it has installed and properly calibrated overfill prevention equipment in compliance with the requirements of the PRUSTR at the Facilities in Puerto Rico and of 40 C.F.R. Part 280 at the Facilities in the Virgin Islands. Defendant, however, is not required to provide this certification for the period after all UST system(s) at a Facility have been temporarily or permanently closed.

16. If between the Date of Lodging and the date of termination of this Decree, Defendant begins to either (i) own or operate USTs at a Facility/Facilities not identified in Appendix A, or (ii) own or operate new USTs at a Facility/Facilities identified in Appendix A, or

(iii) resumes the operation of temporarily closed USTs at a Facility/Facilities identified in Appendix A, Defendant shall notify the United States, according to Section XIV (Notices), within one (1) month after such commencement or resumption. The addition of such USTs shall be deemed approved unless the United States informs Defendant of its disapproval or need for additional information within forty-five (45) Days of receipt of the notice. For purposes of Section XVII (Modification), the addition of a Facility/Facilities to Appendix A under Section 16(i) above shall not be deemed a modification to the Decree. For all USTs subject to this Paragraph, Defendant shall have a fully automated release detection system installed by no later than six (6) months after the date when the notice was to be provided pursuant to this Paragraph, and shall operate the automated release detection system at that location(s) for a minimum of three (3) years thereafter or until the termination of the Consent Decree, whichever occurs first.

17. This Decree in no way relieves Defendant of its responsibility to comply with all applicable federal, State, and/or local laws, regulations, and/or permits. Compliance with this Decree shall not constitute a defense to any action pursuant to said laws, regulations, or permits.

18. Permits. If any compliance obligation under this Section requires Defendant to obtain a federal, State, or local permit or approval, Defendant shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. Defendant may seek relief under the provisions of Section IX (Force Majeure) for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if Defendant has submitted timely and complete applications and has taken all other actions necessary to obtain all such permits or approvals.

VI. SUPPLEMENTAL ENVIRONMENTAL PROJECT

19. Defendant shall implement a Supplemental Environmental Project ("SEP"), requiring the installation of a centralized monitoring system for all UST systems in at least 125 of the Facilities listed in Appendix A, in accordance with all provisions of this Decree, including but not limited to those set forth in this Section and Appendix C. If Defendant after the Date of Lodging adds a Facility/Facilities to Appendix A pursuant to Paragraph 16, Defendant may include such a Facility/Facilities in the SEP to meet the minimum of 125 Facilities so long as the centralized monitoring systems are installed at those Facilities by no later than twelve (12) months after the Effective Date.

20. The SEP requires the installation of any and all communication components (*e.g.*, modems, wiring) necessary to insure the commencement of operation of centralized monitoring of all UST systems at the Facilities identified in Appendix A within twelve (12) months of the Effective Date. The centralized monitoring system shall collect all data generated by the release detection monitoring system required by Paragraph 14 and electronically transmit it to one central location, as provided in Appendix C.

21. The centralized monitoring system that Defendant installs will contain both audible and visible alarms on the console's panels (which alert the station personnel of any alarm conditions that the installed sensors detect). The system will record and maintain that alarm data as well as system testing data at a centralized location. These systems shall be configured for remote monitoring by the Vendor's central data monitoring system. All alarms and testing data shall be transmitted to the Vendor's data center and retained by the Vendor at a data center or other centralized location (which shall include the ability to access electronic records stored elsewhere on remote servers) for a period of five (5) years. If an alarm is

reported, the Vendor, acting on Defendant's behalf, will initiate contact of the personnel responsible for addressing the alarm condition and conducting any necessary response, repair, and/or investigation work.

22. The deadline for completion of installation of this SEP is twelve (12) months after the Effective Date.

23. Defendant shall operate and maintain in good working condition the centralized monitoring equipment for all UST systems in at least 125 of the Facilities listed in Appendix A or otherwise selected pursuant to Paragraph 19, for a minimum of three (3) years from the commencement of operation of the centralized monitoring system (*i.e.*, gathering and disseminating data to a central location identified in Appendix C) for at least 125 Facilities, starting no later than twelve (12) months after the Effective Date.

24. Defendant is responsible for the satisfactory completion of the SEP in accordance with the requirements of this Decree. Defendant may use contractors or consultants in planning and implementing the SEP.

25. With regard to the SEP, Defendant certifies as to the truth and accuracy of each of the following:

a. that to the best of its knowledge and belief after reasonable inquiry, all cost information provided to EPA in connection with EPA's approval of the SEP is complete and accurate and that Defendant in good faith estimates that the cost to install, operate and maintain the centralized monitoring SEP from twelve (12) months after the Effective Date through three (3) years thereafter is approximately $600,000.

b. that, as of the date of executing this Decree, Defendant is not required to perform or develop the SEP by any federal, State, or local law or regulation and is not

required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;

c. that the SEP is not a project that Defendant was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Decree;

d. that Defendant is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activities described in the SEP. Defendant further certifies, that to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activities described in the SEP, nor have the same activities been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two (2) years of the date of this Decree (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired;

e. that Defendant has not received and will not receive credit for the SEP in any other enforcement action; and

f. that Defendant will not receive any reimbursement for any portion of the SEP from any other person.

26. <u>SEP Installation Completion Report</u>

a. Within sixty (60) Days of the deadline for completion of installation of the centralized monitoring equipment for the SEP (Paragraph 22), Defendant shall submit a report ("SEP Installation Completion Report") to the United States, in accordance with Section XIV (Notices). The SEP Installation Completion Report shall contain the following information:

i. a detailed description of the installation of the centralized monitoring equipment, and a listing of the 125 Facilities or more that were selected for the implementation of this SEP;

ii. a description of any problems encountered in installing the centralized monitoring equipment for the SEP and the solutions thereto;

iii. an itemized list of all eligible SEP costs expended;

iv. certification that the centralized monitoring equipment for the SEP has been fully installed pursuant to the provisions of this Decree; and

v. a description of the environmental and public health benefits that are expected to result from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).

b. Within one (1) year of the submittal of the SEP Installation Completion Report and annually thereafter until termination of the Decree pursuant to Section XVIII (Termination) below, Defendant shall submit a written certification confirming that to the best of its knowledge and belief after reasonable inquiry, the SEP's performance requirements, as enumerated in Section B of Appendix C, have been met and that operation and maintenance obligations have been fully implemented during the reporting period ("SEP O&M Annual Certification") pursuant to the provisions of this Decree.

c. Defendant may employ a Vendor/Contractor in the preparation of the SEP Installation Completion Report, so long as the Defendant remains responsible for the submission and its submittal to EPA.

27. EPA may require information in addition to that described in the preceding Paragraph, in order to evaluate Defendant's compliance with the requirements of the SEP.

28. After receiving the SEP Installation Completion Report and the SEP O&M Annual Certifications, the United States shall notify Defendant whether or not Defendant has satisfactorily completed the SEP. If Defendant has not completed the SEP in accordance with this Decree, stipulated penalties may be assessed under Section VIII (Stipulated Penalties).

29. Disputes concerning the satisfactory performance of the SEP and the amount of eligible SEP costs may be resolved under Section X (Dispute Resolution). No other disputes arising under this Section shall be subject to Dispute Resolution.

30. Each submission required under this Section shall be signed by an official with knowledge of the SEP and shall include the certification language set forth in Paragraph 36.

31. Any public statement, oral or written, in print, film, or other media, made by Defendant making reference to the SEP under this Decree shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action, United States v. Total Petroleum Puerto Rico Corp., taken on behalf of the U.S. Environmental Protection Agency under the Resource Conservation and Recovery Act."

32. For federal income tax purposes, Defendant agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

VII. REPORTING REQUIREMENTS

33. Defendant shall submit the following reports in hard copy or by electronic format to the United States, EPA, and EQB:

a. Within thirty (30) Days after the end of each calendar quarter (*i.e.*, by April 30, July 30, October 30, and January 30) after lodging of this Decree, until termination of this Decree pursuant to Section XVIII (Termination), Defendant shall submit a report for the preceding quarter that shall include descriptive information regarding : 1) problems encountered or anticipated, together with implemented or proposed solutions; 2) status of any permit applications relevant to the implementation of this Decree; 3) a discussion of Defendant's progress in satisfying its obligations in connection with Section V (Compliance Requirements) and Section VI (SEP) of this Decree including, at a minimum, a narrative description of activities undertaken, status of any construction or compliance measures, and a summary of costs incurred in connection with the SEP since the previous report; and 4) summaries, as required by Paragraph 14(f), of the information gathered by the automated release detection systems at the Facilities.

b. If Defendant violates, or has reason to believe that it may violate, any requirement of this Decree, Defendant shall notify the United States of such violation and its likely duration, in writing, within ten (10) working days of the day Defendant first becomes aware of the violation, with an explanation of the violation's likely cause and of the remedial steps taken, or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the report is due, Defendant shall so state in the report. Defendant shall investigate the cause of the violation and shall then submit an amendment to the report, including a full explanation of the cause of the violation, within thirty (30) Days of the

day Defendant becomes aware of the cause of the violation. Nothing in this Paragraph or the following Paragraph relieves Defendant of its obligation to provide the notice required by Section IX (Force Majeure).

34. Whenever any violation of this Decree or any other event affecting Defendant's performance under this Decree may pose an immediate threat to the public health or welfare or the environment, Defendant shall notify EPA orally or by electronic or facsimile transmission as soon as possible, but no later than twenty-four (24) hours after Defendant first knew of the violation or event. This procedure is in addition to the requirements set forth in the preceding Paragraph.

35. All reports shall be submitted to the persons designated in Section XIV (Notices).

36. Each report submitted by Defendant under this Section shall be signed by an official of the submitting party and include the following certification:

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

This certification requirement does not apply to emergency or similar notifications where compliance would be impractical based on the circumstances.

37. The reporting requirements of this Decree do not relieve Defendant of any reporting obligations required by the RCRA, PRUSTR or by any other federal, State, or local law, regulation, permit, or other requirement.

38. Any information provided pursuant to this Decree may be used by the United States in any proceeding to enforce the provisions of this Decree and as otherwise permitted by law.

VIII. STIPULATED PENALTIES

39. Defendant shall be liable for stipulated penalties to the United States for violations of this Decree as specified below, unless excused under Section IX (Force Majeure). A violation includes failing to perform any obligation required by the terms of this Decree, including any work plan or schedule approved under this Decree, according to all applicable requirements of this Decree and within the specified time schedules established by or approved under this Decree.

40. Late Payment of Civil Penalty

If Defendant fails to pay the civil penalty required to be paid under Section IV (Civil Penalty) when due, Defendant shall pay a stipulated penalty of $5,000 per Day for each Day that the payment is late.

41. Compliance Milestones

a. The following stipulated penalties shall accrue per violation per Day per Facility for each violation at a particular Facility of the requirements identified in subparagraph (b) of this Paragraph:

Penalty Per Violation Per Day	Period of Noncompliance
$750.00	1st through 14th Day

$1,500.00	15th through 30th Day
$2,500.00	31st Day and beyond

b. Requirements:

i. Comply with the legal obligations referenced in Paragraph 13;

ii. Install a fully automated release detection system for the UST systems at the Facilities pursuant to Paragraph 14(b);

iii. At the Aguadilla Facility (PBL 304124), operate the automated release detection system for tanks and piping pursuant to Paragraph 14(c) and (e);

iv. At all other Facilities, operate the automated release detection system for tanks and piping pursuant to Paragraph 14(d) and (e);

v. Provide written certifications of compliance with applicable release detection requirements pursuant to Paragraph 14(g), (h) and (i);

vi. Comply with the legal obligations referenced in Paragraph 14(j); and

vii. Provide notice of the addition of a Facility/Facilities to Appendix A pursuant to Paragraph 16.

42. Reporting Requirements

The following stipulated penalties shall accrue per violation per Day for each violation of the reporting requirements of Section VII (Reporting Requirements) and Section VI (Supplemental Environmental Projects) of this Decree:

Penalty Per Violation Per Day	Period of Noncompliance
$750.00	1st through 14th Day
$1,500.00	15th through 30th Day
$2,500.00	31st Day and beyond

43. SEP Compliance

a. If Defendant fails to satisfactorily implement the SEP in accordance with the requirements of this Consent Decree by the deadlines set forth in Paragraphs 19 - 23, Defendant shall pay stipulated penalties for each day for which it fails to satisfactorily complete the SEP, as follows:

Penalty Per Violation Per Day	Period of Noncompliance
$750.00	1st through 14th day
$1,500.00	15th through 30th day
$3,000.00	31st day and beyond

b. If Defendant fails either (i) to install the required equipment for the SEP at 110 facilities within one (1) year of the Effective Date, or (ii) to operate the centralized monitoring system pursuant to the terms of this Consent Decree for at least two (2) years (as of 40 months after the Effective Date) at 100 facilities, or (iii) if Defendant halts or abandons work on the SEP at an earlier date, then Defendant shall pay a stipulated penalty of $625,000.00. The penalty under this subparagraph shall accrue as of the date Defendant fails to meet either the installation deadline, or the operational time period requirement specified in this subparagraph, or as of the date Defendant's performance of work on the SEP ceases, whichever date is earlier.

c. Unless the stipulated penalty provisions of subparagraph (b) above are triggered, if at twelve (12) months after the Effective Date and for three (3) years thereafter,

Defendant is unable to comply with the terms of the SEP for at least 125 of the Facilities listed in Appendix A or added subsequently thereto pursuant to Paragraph 16, Defendant must pay the United States a $10,000.00 penalty for each Facility where non-compliance with the SEP provisions of this Decree has occurred. If Defendant commences operation of USTs at Facilities that were closed or acquires USTs at new Facilities after the Effective Date, Defendant may include such Facilities in the SEP to meet the minimum of 125 Facilities, provided that the Defendant notifies EPA and that operation of centralized monitoring at any such Facilities commences no later than twelve (12) months after the Effective Date. If within twelve (12) months after the Effective Date or for three (3) years thereafter, Defendant declares that it cannot comply with the SEP's terms for at least 125 of the Facilities in Appendix A, Defendant shall pay the penalty amount identified in this Paragraph for each Facility below the 125 minimum in lieu of the daily stipulated penalty amounts accruing for a particular Facility under Paragraphs 41 (Compliance Milestones) or 43 (SEP Compliance).

44. Except as provided in Paragraph 43(b) and (c) above, stipulated penalties under this Section shall begin to accrue on the Day after performance is due or on the Day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of this Decree.

45. Defendant shall pay any stipulated penalty within thirty (30) Days of receiving the United States' written demand unless Defendant has invoked and is complying with the procedures of Section X (Dispute Resolution).

46. The United States may in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Decree.

47. Stipulated penalties shall continue to accrue as provided in Paragraph 44, during any Dispute Resolution, but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of EPA that is not appealed to the Court, Defendant shall pay accrued penalties determined to be owing, together with interest, to the United States within thirty (30) Days of the effective date of the agreement or the receipt of EPA's decision or order.

b. If the dispute is appealed to the Court and the United States prevails in whole or in part, Defendant shall pay all accrued penalties determined by the Court to be owing, together with interest, within sixty (60) Days of receiving the Court's decision or order, except as provided in subparagraph (c), below.

c. If any Party appeals the District Court's decision, Defendant shall pay all accrued penalties determined to be owing, together with interest, within fifteen (15) Days of receiving the final appellate court decision.

48. Defendant shall pay stipulated penalties owing to the United States in the manner set forth and with the confirmation notices required by Paragraph 11, except that the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violation(s) the penalties are being paid.

49. If Defendant fails to pay stipulated penalties according to the terms of this Decree, Defendant shall be liable for interest on such penalties, as provided for in 28 U.S.C. § 1961, accruing as of the date payment became due. Nothing in this Paragraph shall be construed to limit the United States from seeking any remedy otherwise provided by law for Defendant's failure to pay any stipulated penalties.

50. Subject to the provisions of Section XII (Effect of Settlement/ Reservation of Rights), the stipulated penalties provided for in this Decree shall be in addition to any other rights, remedies, or sanctions available to the United States for Defendant's violation of any requirement of this Decree or applicable law.

IX. FORCE MAJEURE

51. "Force majeure," for purposes of this Decree, is defined as any event arising from causes beyond the control of Defendant, of any entity controlled by Defendant, or of Defendant's contractors, that delays or prevents the performance of any obligation under this Decree despite Defendant's best efforts to fulfill the obligation. The requirement that Defendant exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any such event (a) as it is occurring and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent possible. "Force Majeure" does not include a) Defendant's financial inability to perform any obligation under this Decree or, b) the failure of any lessee, sublessee, or assignee under a lease or sublease, any entity controlled by the lessee, sublessee, or assignee, or the lessee, sublessee, or assignee's contractors, to perform the obligations required under this Decree or the Act.

52. If any event occurs or has occurred that may delay the performance of any obligation under this Decree, whether or not caused by a force majeure event, Defendant shall provide notice to the United States and EPA by electronic or facsimile transmission within 72 hours of when Defendant first knew that the event might cause a delay. Within seven (7) Days thereafter, Defendant shall provide in writing to EPA an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to

prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Defendant's rationale for attributing such delay to a force majeure event if it intends to assert such a claim; and a statement as to whether, in the opinion of Defendant, such event may cause or contribute to an endangerment to public health, welfare or the environment. Defendant shall include with any notice all available documentation supporting the claim that the delay was attributable to a force majeure.

53. Failure to comply with the above requirements shall preclude Defendant from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Defendant shall be deemed to know of any circumstance of which Defendant, any entity controlled by Defendant, or Defendant's contractors knew or should have known based on the totality of the circumstances.

54. If EPA agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Decree that are affected by the force majeure event will be extended by EPA for such time as is necessary to complete those obligations. Defendant shall not be liable for stipulated penalties for any such period of delay. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. EPA will notify Defendant in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

55. If EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, EPA will notify Defendant in writing of its decision.

56. If Defendant elects to invoke the dispute resolution procedures set forth in Section X (Dispute Resolution), it shall do so no later than fifteen (15) Days after receipt of

EPA's notice pursuant to the above Paragraph. In any such proceeding, Defendant shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid or mitigate the effects of the delay, and that Defendant complied with the requirements of Paragraphs 51 and 52. If Defendant carries this burden, the delay at issue shall be deemed not to be a violation by Defendant of the affected obligation of this Decree identified to EPA and the Court.

X. DISPUTE RESOLUTION

57. Unless otherwise expressly provided for in this Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Decree. Defendant's failure to seek resolution of a dispute under this Section shall preclude Defendant from raising any such issue as a defense to an action by the United States to enforce any obligation of Defendant arising under this Decree.

58. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this Decree shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Defendant sends the United States a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed thirty (30) Days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States shall be considered binding unless, within five (5) Days after the conclusion of the informal negotiations period, Defendant invokes formal dispute resolution procedures as set forth below.

59. Formal Dispute Resolution. Defendant shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by serving on the United States a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Defendant's position and any supporting documentation relied upon by Defendant.

60. The United States shall serve its Statement of Position within forty-five (45) Days of receipt of Defendant's Statement of Position. The United States' Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the United States. The United States' Statement of Position shall be binding on Defendant, unless Defendant files a motion for judicial review of the dispute in accordance with the following Paragraph.

61. Defendant may seek judicial review of the dispute by filing with the Court and serving on the United States, in accordance with Section XIV (Notices), a motion requesting judicial resolution of the dispute. The motion must be filed within fifteen (15) Days of receipt of the United States' Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of Defendant's position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Decree.

62. The United States shall respond to Defendant's motion within the time period allowed by the Local Rules of this Court. Defendant may file a reply memorandum, to the extent permitted by the Local Rules.

63. Standard of Review

a. Disputes Concerning Matters Accorded Record Review. Except as otherwise provided in this Decree, in any dispute brought under Paragraph 59 (Formal Dispute Resolution) that is accorded review on the administrative record under applicable principles of administrative law, Defendant shall have the burden of demonstrating, based on the administrative record, that the position of the United States is arbitrary and capricious or otherwise not in accordance with law.

b. Other Disputes. Except as otherwise provided in this Decree, in any other dispute brought under Paragraph 59 (Formal Dispute Resolution), Defendant shall bear the burden of demonstrating that its position complies with this Decree and applicable law.

64. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Defendant under this Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first Day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 47. If Defendant does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section VIII (Stipulated Penalties).

XI. INFORMATION COLLECTION AND RETENTION

65. To the extent Defendant has the legal authority to provide such access, the United States and its representatives, including attorneys, contractors, and consultants, shall have the right of entry into any Facility, at all reasonable times, upon presentation of credentials, to:

a. monitor the progress of activities required under this Decree;

b. verify any data or information submitted to the United States in accordance with the terms of this Decree;

c. obtain samples and, upon request, splits of any samples taken by Defendant or its representatives, contractors, or consultants;

d. obtain documentary evidence, including photographs and similar data; and

e. assess Defendant's compliance with this Decree.

66. Upon request, Defendant shall provide EPA or its authorized representative splits of any samples taken by Defendant. Upon request, EPA shall provide Defendant splits of any samples taken by EPA.

67. Until five (5) years after the termination of this Decree, Defendant shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Defendant's performance of its obligations under this Decree. This information-retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon request by the United States, Defendant shall provide copies of any documents, records, or other information required to be maintained under this Paragraph. At the conclusion of the information-retention period provided

in the preceding Paragraph, Defendant shall notify the United States at least ninety (90) Days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the United States, Defendant shall deliver any such documents, records, or other information to EPA. Defendant may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege recognized by federal law. If Defendant asserts such a privilege, it shall provide the following: (a) the title of the document, record, or information; (b) the date of the document, record, or information; (c) the name and title of each author of the document, record, or information; (d) the name and title of each addressee and recipient; (e) a description of the subject of the document, record, or information; and (f) the privilege asserted by Defendant.

68. However, no final versions of any documents, records, or other information created or generated pursuant to the requirements of this Decree shall be withheld on grounds of privilege. This shall include, but is not limited to, documents Defendant is required to provide to EPA pursuant to Section XIV (Notices).

69. Defendant may also assert that information required to be provided under this Section is protected as Confidential Business Information ("CBI") under 40 C.F.R. Part 2. As to any information that Defendant seeks to protect as CBI, Defendant shall follow the procedures set forth in 40 C.F.R. Part 2, including but not limited to, providing EPA sufficient documentation to satisfy the requirements of 40 C.F.R. Section 2.204 (e)(4).

70. This Decree in no way limits or affects any right of entry pursuant to applicable federal laws, regulations, or permits, nor does it limit or affect any duty or obligation of Defendant to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.

XII. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

71. This Decree resolves the civil claims of the United States for the violations alleged in the Complaint filed in this action through the date of lodging for the Released Facilities listed in Appendix B which is conditioned upon the full payment of all penalties (including stipulated penalties and any interest accrued), the satisfactory performance of the Compliance Requirements (as set forth in Section V), the SEP (as set forth in Section VI), and accurate certifications and reporting required under this Decree.

72. The United States reserves all legal and equitable remedies available to enforce the provisions of this Decree, except as expressly stated in Paragraph 71. This Decree shall not be construed to limit the rights of the United States to obtain penalties or injunctive relief under the Act or implementing regulations, or under other federal or state laws, regulations, or permit conditions, except as expressly specified in Paragraph 71. The United States further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, any Facility owned and/or operated by Defendant, whether related to the violations addressed in this Decree or otherwise.

73. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, civil penalties, other appropriate relief relating to the Facilities or Defendant's alleged violations, Defendant shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the

instant case, except with respect to claims that have been specifically resolved pursuant to Paragraph 71.

74. This Decree is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Defendant is responsible for achieving and maintaining complete compliance with all applicable federal, state, and local laws, regulations, and permits; and Defendant's compliance with this Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The United States does not, by its consent to the entry of this Decree, warrant or aver in any manner that Defendant's compliance with any aspect of this Decree will result in compliance with provisions of the Act, 40 C.F.R. Part 280, the PRUSTR, or with any other provisions of federal, State, or local laws, regulations, or permits.

75. This Decree does not limit or affect the rights of Defendant or of the United States against any third parties, not party to this Decree, nor does it limit the rights of third parties, not party to this Decree, against Defendant, except as otherwise provided by law.

76. This Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Decree.

XIII. COSTS

77. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by Defendant.

XIV. NOTICES

78. Unless otherwise specified herein, whenever notifications, submissions, or communications are required by this Decree, they shall be made in writing and addressed as follows:

As to the United States:

By email:
eescasemanagement.enrd@usdoj.gov
Re: DJ # 90-7-1-10435

By mail:
EES Case Management Unit
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Re: DJ # 90-7-1-10435

and

As to EPA:

UST Team Leader
U.S. Environmental Protection Agency
Region 2
290 Broadway
New York, New York 10007-1866

As to EQB:

Director
Water Quality Area
Puerto Rico Environmental Quality Board
Edificio de Agencias Ambientales Cruz A. Matos
PO Box 11488
San Juan, Puerto Rico 00910

As to Defendant:

Edwin R. Cruz, Esq.
Pietrantoni Mendez & Alvarez LLC

Banco Popular Center – 19th Floor
209 Muñoz Rivera Avenue
San Juan, Puerto Rico 00918

Jorge A. Galiber Sanchez, Esq.
Legal Manager
Total Petroleum Puerto Rico Corp.
P.O. Box 362916
Torre Santander, Suite 1508
Calle Tabonuco B-7
Guaynabo, Puerto Rico 00968

79. Any Party may, by written notice to the other Party, change its designated notice recipient or notice address provided above.

80. Notices submitted pursuant to this Section shall be deemed submitted upon mailing, unless otherwise provided in this Decree or by mutual agreement of the Parties in writing. Notices shall be sent by first class U.S. mail, certified or registered mail, by Federal Express or equivalent overnight service, or by e-mail.

XV. EFFECTIVE DATE

81. The Effective Date shall be the date upon which this Decree is entered by the Court or a motion to enter the Decree is granted, whichever occurs first, as recorded on the Court's docket.

XVI. RETENTION OF JURISDICTION

82. The Court shall retain jurisdiction over this case until termination of this Decree, for the purpose of resolving disputes arising under this Decree or entering orders modifying this Decree, pursuant to Sections X (Dispute Resolution) and XVII (Modification), or effectuating or enforcing compliance with the terms of this Decree.

XVII. MODIFICATION

83. The terms of this Decree, including any attached appendices, may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to this Decree, it shall be effective only upon approval by the Court.

84. Any disputes concerning modification of this Decree shall be resolved pursuant to Section X (Dispute Resolution), provided, however, that, instead of the burden of proof provided by Paragraph 63 (Standard of Review), the Party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Federal Rule of Civil Procedure 60(b).

XVIII. TERMINATION

85. After Defendant has completed the requirements of Section V (Compliance Requirements), Section VI (Supplemental Environmental Project), and Section VII (Reporting Requirements), and has complied with all other requirements of this Decree, and has paid the civil penalty and any accrued stipulated penalties as required by this Decree, Defendant may serve upon the United States a Request for Termination, stating that Defendant has satisfied those requirements, together with all necessary supporting documentation.

86. Following receipt by the United States of Defendant's Request for Termination, the Parties shall confer informally concerning the Request and any disagreement that the Parties may have as to whether Defendant has satisfactorily complied with the requirements for termination of this Decree. If the United States agrees that the Decree may be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Decree.

87. If the United States does not agree that the Decree may be terminated, Defendant may invoke Dispute Resolution under Section X. However, Defendant shall not seek Dispute Resolution of any dispute regarding termination until sixty (60) Days after service of its Request for Termination.

XIX. PUBLIC PARTICIPATION

88. This Decree shall be lodged with the Court for a period of not less than thirty (30) Days for public notice and comment in accordance with 28 C.F.R. Section 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Decree disclose facts or considerations indicating that the Decree is inappropriate, improper, or inadequate. Defendant consents to entry of this Decree without further notice and agrees not to withdraw from or oppose entry of this Decree by the Court or to challenge any provision of the Decree, unless the United States has notified Defendant in writing that it no longer supports entry of the Decree.

XX. SIGNATORIES/SERVICE

89. Each undersigned representative of Defendant and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Decree and to execute and legally bind the Party he or she represents to this document.

90. This Decree may be signed in counterparts, and its validity shall not be challenged on that basis. Defendant agrees to accept service of process by mail with respect to all matters arising under or relating to this Decree and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons.

XXI. INTEGRATION

91. This Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. No other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Decree or the settlement it represents, nor shall it be used in construing the terms of this Decree.

XXII. FINAL JUDGMENT

92. Upon approval and entry of this Decree by the Court, this Decree shall constitute a final judgment of the Court as to the United States and Defendant. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

XXIII. APPENDICES

93. The following appendices are attached to and part of this Decree:

- "Appendix A" is the list of All Facilities Subject to the Consent Decree;
- "Appendix B" is the list of Released Facilities; and
- "Appendix C" is the Centralized Monitoring System SEP.

Dated and entered this __ day of _____, ____.

_____
[_____]
UNITED STATES DISTRICT JUDGE
District of Puerto Rico

FOR PLAINTIFF UNITED STATES OF AMERICA:

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Environment and Natural Resources Division
United States Department of Justice

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(212) 637-3637

FOR DEFENDANT TOTAL PETROLEUM PUERTO RICO CORP.:

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Calle Tabonuco B-7
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Banco Popular Center – 19th Floor
209 Muñoz Rivera Avenue
San Juan, Puerto Rico 00918
(787) 274-5242
Counsel for Total Petroleum Puerto Rico Corp.

APPENDIX A

ALL FACILITIES SUBJECT TO THE CONSENT DECREE

For purposes of the Decree, "Facility" or "Facilities" shall mean the retail gasoline service stations containing USTs, individually or collectively, owned and/or operated by Defendant and located in either Puerto Rico or the U.S. Virgin Islands. Defendant agrees that each Facility identified below is subject to the terms of this Consent Decree.

PUERTO RICO

	PBL	PHYSICAL ADDRESS	MUNICIPALITY
1	101246	Carr. #150 Km. 18.7	Coamo
2	104005	Calle Fagot, Esq. Cuatro Calles	Ponce
3	104012	Ave. Jesús T. Piñero #263	Hato Rey
4	104108	Ave. Los Dominicos & Boulevard, Levittown	Toa Baja
5	104112	Carr. #3 Km. 135.3, Ave. Los Veteranos	Guayama
6	104117	Carr. 132 Km. 2.5	Ponce
7	104224	Ave. Campo Rico, Country Club	Carolina
8	104228	Carr. #887 Km. 2.0, Bo. San Antón	Carolina
9	104258	Carr. #861 Km. 6.9, Bo. Piñas	Toa Alta
10	104259	Carr. #2 Km. 7.1, Bo. Juan Domingo	Guaynabo
11	104298	Carr. #132 Km. 26.2	Peñuelas
12	104302	Ave. Quilinchini #26	Sabana Grande
13	110210	Carr. #125, Km.0.6, Bo. Cuba	Moca
14	110239	Carr. # 153, Km. 12.1, Bo. Las Flores	Coamo
15	110241	Centro Comercial Lago Alto, PR 181	Trujillo Alto
16	110277	Carr. #2 Km. 16.6, Urb. Covadonga	Toa Baja
17	110287	Carr. #173, Bo. Jagueyes	Aguas Buenas
18	110291	Carr. Est 1, Km. 125.5	Ponce
19	115004	Carr. 860 Km. 20 Martín González, Metrópolis	Carolina
20	115007	Ave. Jesús T. Piñero #1024	San Juan
21	115013	Carr. 3 Km. 27.8, Mercado Regional, Bo. Juan González	Rio Grande

	PBL	PHYSICAL ADDRESS	MUNICIPALITY
22	115015	Carr. 1 Km. 57.4 Bo. Montellano	Cayey
23	115030	Carr. 167, Bo. Buena Vista	Bayamón
24	115031	Carr. 14 Km. 6.2	Ponce
25	115032	Carr. #2, Km. 80, Vista Azul Shopping Center	Arecibo
26	115040	Carr. #172 , Km 0.5	Caguas
27	115041	Carr. 187 Km. 17, HM 9, Bo. Las Cuevas	Loíza
28	115048	Carr. #121, Km. 216.6	Sabana Grande
29	115052	Carr. 172 Caguas a Cidra Km.7.6 Bo. Centejas	Cidra
30	115059	Carr. #100, Int. Carr. #311	Cabo Rojo
31	115073	Calle Eugenio Duarte, Urb. La Milagrosa	Bayamón
32	115079	Ave. Las Cumbres, Esq. Carr. #840, Royal Town	Bayamón
33	115082	Ave. Roberto Clemente	Carolina
34	115084	Ave. Miramar #534	Arecibo
35	115475	Ave. Glasgow, Esq. Grenoble	San Juan
36	115605	Carr. # 1, Km. 50.1, Bo. Beatriz	Cidra
37	115606	Urb. Industrial, Bo. Palmas	Cataño
38	115607	Carr. 6685 Km. 11.9	Ciales
39	115609	Carr. #20, Los Ranchos	Guaynabo
40	115611	Carr. 140 Km. 65.5, Bo. Cruce Dávila	Barceloneta
41	115619	Carr. 155 Km 49.3	Morovis
42	115623	Ave. Roosevelt 957	San Juan
43	115624	Carr. 2 Km. 156.3	Hormigueros
44	115627	Carr. 2 Km. 37.1	Vega Baja
45	115628	Paz Granela 1421	San Juan
46	115634	Carr. 1, Km. 13.4	San Juan
47	115640	Carr. 10, Km. 9.7, Bo Mameyes	Ponce
48	115648	Ave. Minillas, Esquina Hostos	Bayamón

	PBL	PHYSICAL ADDRESS	MUNICIPALITY
49	115653	Carr. 1 Km. 30.8	Caguas
50	115654	Calle Loíza 1751, Esquina Taft	San Juan
51	115659	Carr. 3 Km. 138.3	Guayama
52	115660	Calle José De Diego #214	Cayey
53	115662	Urb. Buena Vista, Ave. 4 Calles #973	Ponce
54	115663	Carr #116, Sector Cruce 4 Calles, Yauco Shopping Center	Yauco
55	115664	Carr. 156 Caguas, Salida a Aguas Buenas	Caguas
56	115668	Carr. 2, Km. 157.4 Bo. Sábalos	Mayagüez
57	115670	Carr.# 19, Km. 1.2, Garden Hills	Guaynabo
58	115673	Carr. 165 Km. 3.5	Toa Baja
59	115675	Ave. 65 Infantería Km. 12.6	Carolina
60	115677	Carr. 165, Km 10.6	Toa Alta
61	115680	Ave. 65 Inf., Km. 10.7	Carolina
62	115684	Carr. 111 Km. 0.7	Utuado
63	115686	Marginal Baldorioty de Castro	Carolina
64	115689	240 Ave Rafael Cordero, Esq. Luis Muñoz Marín	Caguas
65	115690	Carr. 156 , Km. 59.0, Cañaboncito	Caguas
66	115693	Ave. Llorens Torres 205	Arecibo
67	115694	Carr. 861 Km. 3.9 Bo. Bucarabones	Toa Alta
68	115695	Carr. 132, INT. 385	Peñuelas
69	115697	Bo. Juan Domingo	Guaynabo
70	115698	Carr. 149 Km. 57.8	Villalba
71	115700	Calle Dr. Vidal 119, Esq. Dr. Franceschi	Humacao
72	115706	Carr. 181 Esq. Carr. 786	Trujillo Alto
73	115716	Ave. Teniente Martinez, Alturas de Flamboyán	Bayamón
74	115720	Ave. Escorial 557, Caparra Heights	Guaynabo
75	115721	Carr. 2, Km. 121.4, Sector Victoria	Aguadilla

	PBL	PHYSICAL ADDRESS	MUNICIPALITY
76	115727	Carr. 189 Km. 2.6, Salida Gurabo	Caguas
77	115733	Carr. 149 Km. 63.8	Juana Díaz
78	115748	Ponce de León y Madrid	San Juan
79	115753	Ave. Font Martelo # 113	Humacao
80	115897	Ave. Monserrate	Carolina
81	115899	Ave. Muñoz Rivera # 1004	San Juan
82	115900	Avenida Jose De Diego	San Juan
83	115901	Ave. Ponce de León, Pda. 5, Puerta de Tierra	San Juan
84	115917	Ave. Jesús T. Piñero 1771, Summit Hills	San Juan
85	115932	Carr. 1, Esq. Carr. 189	Caguas
86	115938	Carr. 2 Km. 30.6	Vega Alta
87	115945	Carr. 165, Km 4.7, Bo. Quebrada Cruz	Toa Alta
88	115977	Calle Gautier Benítez 160 Cayey a Caguas	Caguas
89	115981	1251 RH Todd, Esquina Palmas	San Juan
90	210156	Carr. #135 Km. 80.9	Adjuntas
91	210160	Carr. #181 Km. 25.1, Bo. Mamey	Gurabo
92	210161	Carr. #128 Km. 2.0, Bo. Almácigo Bajo	Yauco
93	210220	Carr. #173 Km. 8.0, Bo. Rabanal	Cidra
94	210221	Carr. #301 Km 5.5	Cabo Rojo
95	210222	Carr. #486, Km 5.5, Bo. Zanjas	Camuy
96	210240	Carr. #112 Km. 5.4	Isabela
97	210307	Carr. 921, Km 3.3, Bo. Hato Tejas	Humacao
98	215067	Carr. 110, Km.10, Maleza Alta (Gate 5, Ramey)	Aguadilla
99	215601	Carr. 787, Km. 18.3, Bo. Bayamón	Cidra
100	215610	Calle Guillermo Esteves, Esq. Vicens	Jayuya
101	215645	Carr. 111 Int. 446 Bo. Roble	San Sebastián
102	215665	Carr. 113, Km. 2.3	Isabela

	PBL	PHYSICAL ADDRESS	MUNICIPALITY
103	215679	Bo. Asomante, Carr. 14, Km. 48.7	Aibonito
104	215712	Ave. Lomas Verdes, Plaza Olmedo	San Juan
105	215713	Carr. 200, Km 1.4	Vieques
106	215714	Carr. 200, Km.1.5	Vieques
107	215755	Calle 25 de Julio, Esq. Prolongación	Yauco
108	220124	Carr. #459, Km. 3.0, Bo. Corrales	Aguadilla
109	304008	Carr. #167	Bayamón
110	304011	Carr. #1, KM. 0.2, Int. Carr. #20, La Muda	Guaynabo
111	304130	Carr. #1 Km. 37.5	Caguas
112	304132	Ave. Castiglioni #51-Bayamon Gardens	Bayamón
113	304140	Carr. 8855 Calle Degetau-Canton Mall	Bayamón
114	304146	Carr. #14 Km. 73.3 Bo. Montellano	Cayey
115	304153	9415 Ave. Los Romeros, Montehiedra	San Juan
116	304158	Carr. #100, Km. 3.6, Bo. Guanajibo	Cabo Rojo
117	304170	Carr. #638 Km. 5.4, Bo. Miraflores	Arecibo
118	304315	Carr. #848 Km 0.8, Saint Just	Carolina
119	310114	Carr. #2 Km. 26.1, Bo. Espinosa	Dorado
120	310115	Calle Post 330	Mayagüez
121	310147	Carr. #178 Km. 1 Hm. 3, Bo. Guásimas	Arroyo
122	310305	Carr. #779 Km. 8.8, Bo. Paloma	Comerío
123	315070	Carr. #185 Km 2.6, Bo. Campo Rico	Canóvanas
124	315071	Carr. #2, Bo Membrillo	Camuy
125	315081	Ciudad Universitaria	Trujillo Alto
126	315172	San Patricio	Guaynabo
127	315618	Carr. 2 Mayaguez Bo. Algarrobo	Mayagüez
128	315620	Carretera Número 3	Luquillo
129	315655	Ave. Barbosa 621, Esq. Calle Navarro	San Juan

	PBL	PHYSICAL ADDRESS	MUNICIPALITY
130	315729	Carr. No. 2, Km. 222.2 El Tuque	Ponce
131	315906	Calle 65 de Infantería, # 70	Lajas
132	410127	Calle Santa Cruz #25	Bayamón
133	104107	Carr. #20 Km. 4.9	Guaynabo
134	104116	Carr. #2 Km. 174.3	San Germán
135	104235	Carr. #3 Km. 141.4	Guayama
136	110247	Carr. #116 Km. 6.6	Lajas
137	115016	Victory Shopping Center, PR 167	Bayamón
138	115080	Marginal Ave. Expreso Sur, Pda. 14, Tras Talleres	San Juan
139	115603	Calle Comercio 123	Mayagüez
140	115635	Calle E, Esquina B, Urb. Montebrisas	Fajardo
141	115641	Calle Guadalupe Final	Ponce
142	115683	Carr. 902, km 1.6, Bo. Limones	Yabucoa
143	115688	Calle Cristobal Colón 65, Bo. Juan Martín	Yabucoa
144	115709	Carr. 121, #7, Bo. Rayos	Sabana Grande
145	115710	Antonio Barceló Núm. 1	Cayey
146	115728	Carr. 183 Km. 4.6, Bo. Tomas de Castro	Caguas
147	115734	Ave. Betances, Hnas. Dávila	Bayamón
148	115885	Calle Loíza, Esquina Tapia	Santurce
149	115888	Carr.2, Km 46.3, Bo. Campo Alegre	Manati
150	115911	Carr. 3, Km. 140.7	Guayama
151	115915	Ave. Club Rotario	Arecibo
152	115944	Calle Luna #22	San Germán
153	115978	Carr. 2 Km. 41.3, Bo. Algarrobo	Vega Baja
154	210308	Calle Luna #144	San Germán
155	215612	Calle G. Mellado	Vieques
156	215685	Carr. 114 Km. 31.5	Coamo

	PBL	PHYSICAL ADDRESS	MUNICIPALITY
157	215859	Calle Georgetti 21	Comerío
158	220745	Carr. 901 Km. 12.6	Yabucoa
159	304129	Carr. #2, Km. 69.6, Bo. Santana	Arecibo
160	304317	Carr. #3 Km. 109.0	Maunabo
161	410106	Carr. #3 Km. 76.4, Bo. Río Abajo	Humacao
162	999151	Cedro Arriba	Naranjito
163	999163	San Germán	San Germán
164	999229	Carr. 121	Sabana Grande
165	999300	Villalba	Villalba

ST. THOMAS, USVI

	PBL	PHYSICAL ADDRESS	MUNICIPALITY
1	197328/117463	#384 and #391 Anna's Retreat	St. Thomas
2	138259\217353	#17-A Estate Smith Bay (also #335 Long Bay Road)	St. Thomas
3	137293\217466	2-3 Contant, No. 7B Southside Quarter	St. Thomas
4	137297\217469	#7 Charlotte Amalie	St. Thomas
5	137305\217475	210-3A Altona	St. Thomas

Note 1

Facility Identification: For the convenience of Defendant only, the list above includes the company's internal "PBL" numbers used to track the Facilities. In the event that a question arises about the identification or location of a Facility, the parties shall resort to the facility registration numbers that are publicly available at EQB.

Note 2

Centralized Monitoring System SEP: Defendant agrees to install the centralized monitoring equipment and remote fuel management software, which together constitute the Centralized Monitoring System SEP, in at least 125 of the above-listed Facilities. Pursuant to Paragraph 16 of this Consent Decree, Defendant may revise Appendix A to include additional facilities. If Defendant adds a Facility to Appendix A, pursuant to Paragraph 19 of this Consent Decree Defendant may then choose to include such a Facility within the group of 125 Facilities that it selects for installation of the Centralized Monitoring System SEP.

APPENDIX B

RELEASED FACILITIES

Released Facilities" shall mean retail gasoline service stations in Puerto Rico or the U.S. Virgin Islands containing UST(s) owned and/or operated at one time by Defendant that are the subject of the filed complaint, and for which the United States' claims against these stations for violations of Subtitle I of RCRA and its implementing regulations, are resolved under Section XII of this Consent Decree.

1.	PBL 115938	Carr. 2, Km 30.6, Vega Alta, PR
2.	PBL 104012	263 Ave. Piñeros, San Juan, PR
3.	PBL 310289	Ave. E. Corde Hayde Rexach, Villa Palmeras, San Juan, PR
4.	PBL 115900	Calle José de Diego #964, Urb. La Riviera, San Juan, PR
5.	PBL104005	2811 Ave. Las Américas, Calle Fagot, Esq. 4 Calles, Ponce, PR
6.	PBL 104116	Carr. 2, Km 174.3, San Germán, PR
7.	PBL 110210	Carr. 125, Km 6, Bo. Cuba, Moca, PR
8.	PBL 110238	Carr. 357, Km 3.9, Maricao, PR
9.	PBL 110247	Carr. 116, Km. 6.6 Lajas, PR
10.	PBL 104298	Carr. 132, Km 26.2, Peñuelas, PR
11.	PBL 104302	Carr. 2, Km 215.4, Sabana Grande, PR
12.	PBL 103311	Carr. 2, Km. 22.3, Bo. Pámpanos, Ponce, PR
13.	PBL 2150	Carr. 152, Km 18.2, Naranjito, PR
14.	PBL 210308	101 Calle Luna, San Germán, PR
15.	PBL 304124	Carr. 459, Km 3.0, Bo. Corrales, Aguadilla, PR
16.	PBL 304158	Carr. 100, Km 3.6, Cabo Rojo, PR
17.	PBL 210240	Carr. 112, Km 5.4 Bo. Arenales Altos, Isabela, PR
18.	PBL 310290	Carr. 102, Km 222.4, Sabana Grande, PR
19.	PBL 104117	Carr. 2, Km 2.5, Bo. Canas, Ponce, PR
20.	PBL 115698	Carr. 149, Km 57.8, Bo. Tierra Santa, Villalba, PR
21.	PBL 115074	Carr. 307, Km 138.2, Bo. Naranjo, Aguada, PR
22.	PBL 115603	123 Calle Comercio, Mayagüez, PR
23.	PBL 115611	Carr. 140, Km 65.5, Bo. Cruces Dávila, Barceloneta, PR
24.	PBL 115668	Carr. 2, Km 157.4, Bo. Sábalos, Mayagüez, PR
25.	PBL 115684	Ave. Nueva, Carr. 111, Km 0.7 Utuado, PR
26.	PBL 115721	Carr. 2, Km 121.4, Sector Victoria, Aguadilla, PR
27.	PBL 115733	Carr. 149, Km 63.8, Bo. Guayabal, Juana Díaz, PR
28.	PBL 210156	Carr. 135, Km 81.0, Adjuntas, PR
29.	PBL 210161	Carr. 128, Km 2, Almacigo Bajo, Yauco, PR
30.	PBL 115662	973 Ave. Nita Nacaro, Urb. Mercedita, Ponce, PR
31.	PBL 215672	Carr. 140, Km 56.2, Florida, PR
32.	PBL 197328/ 117463	#384 and #391 Anna's Retreat, St. Thomas, USVI
33.	PBL 137305/ 217475	#210-3A Altona, St. Thomas, USVI

34.	PBL 137297/ 217469	#7 Charlotte Amalie, St. Thomas, USVI
35.	PBL 138259/ 217353	#17-A Estate Smith Bay (also #335 Long Bay Road), St. Thomas, USVI

Note 1

Facility Identification: For the convenience of Defendant only, the list above includes the company's internal "PBL" numbers used to track the Facilities. In the event that a question arises about the identification or location of a Facility, the parties shall resort to the facility registration numbers that are publicly available at EQB.

APPENDIX C

CENTRALIZED MONITORING SYSTEM
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Defendant shall install, operate and maintain a centralized monitoring system that collects data generated by the release detection monitoring equipment on USTs owned and/or operated by Defendant and electronically transmits it to one central location, pursuant to the requirements of Section VI (SEP) of this Decree, and in accordance with the specifications and criteria identified in this Appendix.

A. Equipment: The centralized electronic monitoring system shall be installed at a minimum of 125 Facilities identified in Appendix A, and shall be equipped with the following equipment:

1. Centralized Monitoring Equipment: Instruments capable of transmitting by standard Ethernet connection data generated by the release detection monitoring equipment installed pursuant to Section VI (SEP) of this Decree, consisting of:

Ethernet Port Server Consoles at each Facility with associated monitoring hardware

Interface Ethernet Port Server Modules on existing tank sensors

Configure Ethernet Port Server Modules to Ethernet connection at each Facility (with internet access to be provided to each Facility)

Program tank monitors to communicate with Ethernet Port Server system

2. Remote Fuel Management Software: Software compatible with existing UST-monitoring hardware, such as Franklin Systems Sentinel or equivalent software, and capable of collecting data generated by the release detection monitoring equipment installed pursuant to Section VI (SEP) of this Decree, and transmitting it in real-time to the centralized monitoring location.

B. Performance Requirements:

3. The centralized monitoring equipment shall be capable of sounding both audible and visible alarms on the equipment's consoles to alert Facility personnel of any alarm conditions that the installed sensors detect.

4. The centralized monitoring equipment must be capable of collecting and storing all data generated by the release detection monitoring equipment installed pursuant to Section VI (SEP) of this Decree from each Facility and electronically transmitting it to a monitoring console located in the office of Defendant's central location at City View Plaza I, Suite 803, Road 165, Km. 1.2 #48, Guaynabo, PR 00968, and/or in the office of Defendant's Vendor located at 7300 West Friendly Avenue, Greensboro, NC 27420 ("Central Office"). All data shall mean all data

required to be generated by Section VI (SEP) of this Decree, consisting of release detection monitoring reports for each UST system and its associated piping, alarm data, line tightness test data, and line leak detector test data.

5. The remote fuel management software must be capable of collecting, in real-time, all "FUEL ALARM," "ALARM," or "ACTIVE," data collected by the release detection monitoring equipment installed pursuant to Section VI (SEP) of the Decree, and electronically transmitting it to the centralized location.

6. If "FUEL ALARM," "ALARM," "ACTIVE" data, or other condition that may indicate a release of a regulated substance, is reported, Defendant shall immediately notify on-site personnel who can take immediate action (*e.g.*, inspect sumps, turn off dispensers, etc) to minimize the effects of a suspected release, and investigate the "Fuel Alarm," "Alarm," "Active" data or other condition in accordance with the "system test" or "site check" procedures laid out in 40 C.F.R. § 280.52 and PRUSTR Rule 503. Where Defendant's investigation into the "Fuel Alarm," "Alarm," "Active" data or other condition indicates a potential release of a regulated substance, Defendant must contact response personnel at EPA and the EQB within 24 hours and shall address the condition and conduct any necessary response and repair work in accordance with the requirements set forth at 40 C.F.R. §§ 280.50-280.52 and the applicable PRUSTR requirements.

C. Operation: Defendant shall operate and maintain in good working condition the centralized monitoring system and remote fuel management software described herein in accordance with manufacturers' recommendations for a period of not less than three (3) years from the commencement of operations for at least 125 Facilities, starting no later than twelve (12) months after the Effective Date, in accordance with Paragraphs 22 and 23. Defendant shall submit SEP O&M Annual Certifications to the United States in accordance with Paragraph 26 of this Decree.

D. Record Retention: All reports and data generated by release detection monitoring equipment at each Facility shall be electronically transmitted to the Central Office and shall be retained at the Central Office for a minimum of five (5) years from the termination of this Decree pursuant to Section XVIII of the Decree. Reports shall be available to EPA upon request.