

THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

SILKY ASSOCIATES, LLC

APPEAL NO. RCRA 21-02

ANSWER TO JOYCE A. HOWELL Dated APRIL 23, 2021
MOTION

I never Disrespected to Mr. Martinez. He just told me
He come from EPA then he was taking picture of
All my underground TANKS.

IF. He have told me that he just
come to take picture see if I have over Fill Fuel
equipment-(EQUIPMENT) if not install it and EPA
WANT TO INSTALL. I should install then as
I do not want any problema from EPA. But
He never given any information. I never ask
him any like that question and let him do
what he was doing.

I have purchase this store in

~~Feb 2005~~ July 2005 (1st of JULY) I happen to asked
why these law and code of VA not applied to Previous
(Owner) OWNER. On Page 4 of motion no. 3, JOYCE HOWELL
Saying that Ms. TOFFEL is doing her job
Under the Law/code of VA. - 9 VA Code & 25-580-10
And this Law was made on Feb 2004

Complete information on Page 5 of
Filed Paper on MARCH 23-2021 COMPL. 49 PARAGRAPH
See 20 Va Reg 1505 (FEB-23-2004) EXHIBIT 'A'

Ms TOFFEL is MAD with us Because I told her Department suppose to apply this law to Previous Pilot corporation and they failed to do so. But she do not replied me to but she kept this talk in her mind not forget.

I time I was discussing to install Drop Tube overflow equipment. Requesting more time Because ~~manufacturer~~ manufacturer was unable to supply Demand and same time my Daughter in law took my phone to talk with her and then suddenly ~~th~~ she start saying to Ms Toffel I will sue you I ~~do~~ don't know what happen but I took Phone from her I got mad to daughter (in law) that's not the way to talk An Officer and I Appologise with Ms Toffel that she don't know how to talk An Officer. I Appologise several time But I think she told me don't say I have am not mad. But after that all this penalty case started.

Joece Howell on Page 4 article 4 says

this event is not ~~connect~~ connected with 2003-2004 and this inspection happen in July 2016 But they not checked that I have already overflow equipment (EQUIPMENT) as Yeeder Root with CSLD. I do not know when New INVENTION

OR DISCOVERED OVERFILL DROPTUBE INTRODUCED
and we have to INSTALL #AS Per Va Law. When Ms Toffell
told me and told me to Rush and Close my all Tanks
I ~~told~~ talk to supplier and with there help Request
to Manufacturer I installed the Droptube in
Presence of DEQ officers.

As I am optician I do not have
an information of all these code, But Now I are
taken care of all these code and my GAS station
is under the EPA COMPLIANCE. As per all the Code
Officers from DEQ my Michel Kelly he have visited
Act. And took all the information certificate.

As I was already ~~eq~~ EQUI EQUIP with
overflow Fuel Now I am also equipped Modern technology
equipment. I ~~to~~ ~~that~~ think I have not broke any
law. Please FORGIVE me. I believe you have
this word in you Dishonor.

Thank you very much. Again

Please Forgive me

Yours
Lafatmis S. Beggs
4.30.21.

The second issue is whether the Regional Judicial Officer erred in determining that Respondent is liable for violating Count IV as alleged by the Region for failure to have overfill prevention equipment. In the Complaint, the Region alleged that:

From at least August 1, 2013 through at least April 9, 2018, Respondent failed [to] use overfill prevention equipment that automatically shuts off flow into the tank when the tank is more than 95 percent full or alerted the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high level alarm for the UST-001, UST-002, UST-003, UST-004 and UST-005 UST systems.

EXHIBIT A.

Compl. ¶ 49. The Region further alleged that failure to use the overfill prevention equipment specified above constitutes a violation of 9 Va. Admin. Code § 25-580-60(4) and 9 Va. Admin. Code § 25-580-50(3)(a)(2). *Id.* ¶ 50. The Region reiterated its allegation in its Motion for Default, and cited to an undated copy of the Virginia regulations in support, attached as Exhibit P. Motion for Default at 5 (citing Exhibit P). The Regional Judicial Officer determined that Respondent was liable for the violation as alleged by the Region. Default Order at 15-16. However, as amended since 2004,¹ 9 Va. Admin. Code § 25-580-50(3)(a)(2) states that owners and operators “must use the following overfill prevention equipment”:

Overfill prevention equipment that will:

- (a) Automatically shut off flow into the tank when the tank is no more than 95% full;
- (b) Alert the transfer operator when the tank is no more than 90% full by restricting the flow into the tank or triggering a high-level alarm; *or*

→ ¹ See 20 Va. Reg. 1505, 1505 (Feb. 23, 2004) (finalizing amendments) (<http://register.dls.virginia.gov/vol20/iss12/v20i12.pdf>); see also 19 Va. Reg. 3486, 3493 (Aug. 11, 2003) (language of proposed and ultimately finalized amendments) (<http://register.dls.virginia.gov/vol19/iss24/v19i24.pdf>).