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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

In the Matter of:)
)
Euclid of Virginia, Inc.) Administrative Complaint, Compliance
4225 Connecticut Avenue) Order and Notice of Opportunity for
Washington, DC 20008) Hearing
)
) U.S. EPA Docket Number
RESPONDENT) RCRA-03-2009-0067
)
) Proceeding Under Section 9006 of the
) Resource Conservation and Recovery
) Act, as amended, 42 U.S.C. Section
) 6991e

**ADMINISTRATIVE COMPLAINT, COMPLIANCE ORDER
AND NOTICE OF OPPORTUNITY FOR HEARING**

I. INTRODUCTION

This Administrative Complaint, Compliance Order and Notice of Opportunity for Hearing ("Complaint") is issued by the United States Environmental Protection Agency ("EPA" or "Complainant"), pursuant to Section 9006 of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereafter as "RCRA"), 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.

EPA hereby notifies Euclid of Virginia, Inc. ("Respondent") that EPA has determined that Respondent has violated certain provisions of Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m, EPA's regulations thereunder at 40 C.F.R. Part 280, and the Virginia and District of

Columbia State Underground Storage Tank (“UST”) Programs, as authorized by EPA pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c. Section 9006(a)-(d) of RCRA, 42 U.S.C.

§ 6991e(a)-(d) authorizes EPA to take an enforcement action whenever it is determined that a person is in violation of any requirement of RCRA Subtitle I, EPA’s regulations thereunder, or any regulation of a state underground storage tank program which has been authorized by EPA. Under Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d), EPA may assess a civil penalty against any person who, among other things, violates any requirement of the applicable federal or state UST program.

Effective October 28, 1998, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the Commonwealth of Virginia was granted final authorization to administer a state UST management program *in lieu* of the Federal underground storage tank management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991i. The District of Columbia was granted final authorization to administer a state UST management program on May 4, 1998. The provisions of the Virginia and District of Columbia UST management programs, through these final authorizations, are enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e.

Virginia’s authorized UST program regulations are set forth in the Virginia Administrative Code, Title 9, Agency 25, Chapter 580, Sections 10 *et seq.*, and will be cited hereinafter as 9 VAC 25-580-10, *et seq.* The District of Columbia’s authorized UST program regulations are set forth in the District of Columbia Municipal Regulations, Title 20, Chapters 55 *et seq.*, and will be cited hereinafter as 20 DCMR §§ 5500 *et seq.*

To the extent that factual allegations or legal conclusions set forth in this Complaint are based on provisions of the Virginia or District of Columbia authorized UST management program regulations, those provisions are cited as authority for such allegations or conclusions.

EPA has given Virginia and the District of Columbia prior notice of the issuance of this Complaint in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

COUNT 1

1. Respondent is a “person” as defined in Section 9001 of RCRA, 42 U.S.C. § 6991, 9 VAC 25-580-10 and 20 DCMR § 6899.1.
2. Until at least June 25, 2008, Respondent was the “owner” and/or “operator,” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, 9 VAC 25-580-10, and 20 DCMR § 6899.1, of “underground storage tanks” (“USTs”) and “UST systems” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, 9 VAC 25-580-10 and 20 DCMR § 6899.1, located at several different facilities in Virginia and the District of Columbia, including the following five specific facilities:
 - a. Lowest Price Gas
22 Florida Avenue, N.W.
Washington, D.C.
 - b. Lowest Price Gas/Georgetown Automotive Services
1576 Wisconsin Avenue, N.W.
Washington, D.C.
 - c. Lowest Price Gas/Van Ness Auto Care
4225 Connecticut Avenue, N.W.
Washington, D.C.

- d. Lowest Price Gas/Ruckersville Food Market
13793 Spotswood Trail
Ruckersville, Virginia
- e. Lowest Price Gas
19503 James Monroe Highway
Leesburg, Virginia

3. Pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991*d*(a), an owner or operator of an UST must, upon request by any duly designated representative of EPA, furnish, in relevant part, information and records with regard to such UST. Pursuant to 20 DCMR § 5602.1 and 9 VAC 25-580-120, owners and operators shall, in relevant part, cooperate fully with requests for document submission pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991*d*.

4. On June 27, 2008, EPA mailed to Respondent a Request for Information, issued pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991*d*(a). A copy of this Request for Information is attached to this Complaint as Exhibit A. This Request for Information required Respondent to provide information regarding the USTs at the five facilities listed in Paragraph 2, above. The letter containing such Request was received by Respondent on June 30, 2008.

5. The June 27, 2008 Request for Information was a follow-up to several e-mails requesting essentially the same information. These e-mails were sent in February and May, 2008 from Marie Owens of EPA to Thomas "Ted" Beck, a contractor whom Respondent had designated as its agent in providing compliance information to EPA. Mr. Beck never sent to EPA the information requested in the e-mails, despite his assurances to EPA that he had compiled information and despite his promises, on more than one occasion, that he would send such information to EPA.

6. The June 27, 2008, Request for Information required Respondent to provide the requested information no later than five (5) calendar days from the date of Respondent's receipt of the Request. Respondent was thus required to provide the requested information by no later than July 5, 2008.

7. To date, Respondent has not responded in any way to the June 27, 2008 Request for Information.

8. From at least July 5, 2008 to at least the date of this Complaint, Respondent has violated Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a), 20 DCMR § 5602.1 and 9 VAC 25-580-120, by failing to provide a response to EPA's June 27, 2008 Request for Information.

III. COMPLIANCE ORDER

A. Within fifteen (15) days after the effective date of this Compliance Order, Respondent must provide a full response to June 27, 2008 Request for Information.

B. In letters to state agencies, Respondent has claimed that, as of June 25, 2008, it no longer owns the USTs at the five facilities listed in Paragraph 2, above. If this claim is true, then Respondent may not be able to fully comply with mandates of the June 27, 2008 Request for Information, to the extent that some of the mandates may only be performed by a current owner or operator of the USTs in question. However, Respondent must nonetheless comply with the June 27, 2008 Request for Information to the fullest extent possible, including providing documentation to EPA of all measures taken to address the matters raised in the June 27, 2008 Request for Information. This full documentation should include, but is not limited to, the specific information set forth in Paragraphs C, D and E, below.

C. Questions 1, 5 and 6 in the June 27, 2008 Request for Information required Respondent to submit new or updated registrations for certain USTs to the appropriate state agencies. To the extent that Respondent no longer owns the USTs in question, Respondent may not be the appropriate party to submit new or updated registrations to the state at the current time. However, Respondent must provide to EPA copies of any new or updated registrations responsive to EPA's information requests which Respondent did submit to state agencies, either prior to or subsequent to Respondent's alleged transfer of ownership of the USTs. If no such new or updated registrations were ever submitted, then Respondent's response to the June 27, 2008 Request for Information should so state.

D. Question 2 in the June 27, 2008 Request for Information requested information and documentation regarding the "current" status of the use of automatic tank gauging ("ATG") at the facility on Wisconsin Avenue in Washington, D.C., and for the 12-month period prior to the Respondent's receipt of the Request for Information. Respondent may not be able to provide information and documentation of the "current" status of the ATG as of the date of this Compliance Order if Respondent both (1) no longer owns or operates the USTs in question and (2) no longer has access to such "current" information and documentation. However, Respondent must at a minimum provide information of the "current" status of the ATG as of the date of Respondent's receipt of the Request for Information (or as of the last date on which Respondent owned and/or operated the ATG, if earlier) and for the 12-month period preceding such date.

E. Question 3 in the June 27, 2008 Request for Information requested information and documentation regarding measures taken to prevent the reoccurrence of questionable manual tank gauging practices at the facility on Wisconsin Avenue in Washington, D.C. Respondent must provide the requested information and documentation with regard to any of the measures it undertook with regard manual tank gauging at this location, or should state that no such measures were undertaken.

H. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this Compliance Order which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this Compliance Order shall be certified by a responsible corporate officer of Respondent, as defined in 40 C.F.R. § 270.11(a). The certification of the responsible corporate officer required above shall be in the following form:

I certify that the information contained in or accompanying this [type of submission] is true, accurate, and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared 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 fines and imprisonment for knowing violations.

Signature: _____

Name: _____

Title: _____

I. All documents and reports to be submitted pursuant to this Compliance Order shall be sent to the following persons:

- (a) Documents to be submitted to EPA shall be sent certified mail, return receipt requested, or by overnight delivery with signature verification, to:

Marie Owens
Land and Chemicals Division
Mail Code 3LC70
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

and

Benjamin D. Fields
Senior Assistant Regional Counsel
Mail Code 3RC30
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

- (b) One copy of all documents submitted to EPA shall be sent by regular mail to each of the following state contacts:

Bowen Hosford
Acting Associate Director
Toxic Substances Division
DC Department of the Environment
51 N Street, NE, 6th Floor
Washington, DC 20002-3327

Russ Ellison
UST Program Coordinator
Office of Spill Response & Remediation
VA Department of Environmental Quality
629 Main Street
Richmond, VA 23219

J. The term “days” as used herein shall mean calendar days unless specified otherwise.

K. Respondent is hereby notified that failure to comply with any of the terms of this Compliance Order may subject Respondent to the imposition of a civil penalty of up to \$32,500 for each day of continued noncompliance, pursuant to Section 9006(a)(3) of RCRA, 42 U.S.C. § 6991e(a)(3), the Debt Collection Improvement Act of 1996 (“DCIA”), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19.

IV. OPPORTUNITY TO REQUEST A HEARING

Respondent has the right to request a hearing to contest any matter of law or material fact set forth in this Complaint and Compliance Order or the terms of the Compliance Order. **To request a hearing, Respondent must file a written Answer to the Complaint with the Regional Hearing Clerk, Mail Code 3RC00, U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, *within thirty (30) days of receipt of this Complaint.*** The Answer must clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint of which Respondent has any knowledge. Where Respondent has no knowledge of a particular factual allegation, the Answer should so state. The Answer should contain: (1) the circumstances or arguments which are alleged to constitute the grounds of any defense; (2) the facts which Respondent disputes; (3) the basis for opposing any proposed relief; and (4) a statement as to whether a hearing is requested. The denial of any material fact or the raising of any affirmative defense shall be construed as a request for a hearing. All material facts not denied in the Answer will be considered as admitted.

If Respondent fails to file a written Answer within (30) days of receipt of this Complaint, such failure shall constitute an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing on such factual allegations. Pursuant to 40 C.F.R. § 22.37(b), the Compliance Order in this Complaint automatically becomes a Final Order if a written Answer requesting a hearing is not filed within 30 days after receipt of this Complaint.

Any hearing requested by Respondent will be conducted in accordance with the provisions of the Consolidated Rules of Practice. A copy of these rules is enclosed with this Complaint.

A copy of Respondent's Answer and all other documents that Respondent files in this action should be sent to the attorney assigned to represent EPA in this matter, as follows:

Benjamin D. Fields
Senior Assistant Regional Counsel
Mail Code 3RC30
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

V. SETTLEMENT CONFERENCE

Complainant encourages settlement of the proceedings at any time after issuance of the Complaint if such settlement is consistent with the provisions and objectives of RCRA. Whether or not a hearing is requested, Respondent may request a settlement conference with the Complainant to discuss the allegations of the Complaint. A request for a settlement conference does not relieve Respondent of its responsibility to file a timely Answer.

The procedures in the Consolidated Rules of Practice for quick resolution of a proceeding do not apply in this case because the Complaint seeks a compliance order. *See* 40 C.F.R. § 22.18(a).

In the event settlement is reached, the terms shall be expressed in a written Consent Agreement prepared by Complainant, signed by the parties, and incorporated into a Final Order signed by the Regional Administrator or his designee. The execution of such a Consent Agreement shall constitute a waiver of Respondent's right to contest the allegations of the Complaint and its right to appeal the proposed Final Order accompanying the Consent Agreement.

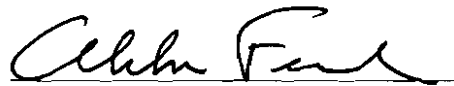
If you wish to arrange a settlement conference, please contact Benjamin D. Fields, Senior Assistant Regional Counsel, at (215) 814-2629. Please note that a request for a settlement conference does not relieve Respondent of its responsibility to file an Answer within thirty (30) days following its receipt of this Complaint.

VI. SEPARATION OF FUNCTIONS AND EX PARTE COMMUNICATIONS

The following Agency offices and officers, and their staffs, are designated as the trial staff to represent the Agency as a party in this case: U.S. EPA, Region III, Office of Regional Counsel; U.S. EPA, Region III, Waste & Chemicals Management Division; and the EPA Assistant Administrator for Enforcement and Compliance Assurance. Commencing from the date of the issuance of this Complaint until issuance of a final agency decision in this case, neither the Administrator, members of the Environmental Appeals Board, Presiding Officer, Regional Administrator, nor the Regional Judicial Officer, may have an *ex parte* communication

with the trial staff or any representative of the Respondent on the merits of any issue involved in this proceeding. Please be advised that the Consolidated Rules of Practice prohibit any unilateral discussion or *ex parte* communication of the merits of a case with the Administrator, members of the Environmental Appeals Board, Presiding Officer, Regional Administrator, or the Regional Judicial Officer after issuance of a Complaint.

Date: 12/24/08



Abraham Ferdas, Director
Land and Chemicals Division



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

JUN 27 1998

FED EX

Koo Yuen
Euclid of Virginia, Inc
4225 Connecticut Avenue NW
Washington, D.C. 20008

Re: Request for information pursuant to Section 9005 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6991d, regarding the Underground Storage Tank systems ("UST systems") located the following facilities:

Lowest Price Gas
22 Florida Avenue NW
Washington, DC 20001
Washington, DC

Lowest Price Gas
Van Ness Auto Care
4225 Connecticut Avenue NW
Washington, DC 20008

Lowest Price Gas
Georgetown Automotive Services
1576 Wisconsin Avenue NW
Washington, DC 20007

Ruckersville Food Market
13793 Spotswood Trail
Ruckersville, VA

19503 James Monroe Highway
Leesburg, VA

REFERENCE NUMBER: # I08-058

Dear Mr. Yuen:

Subtitle I of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6991 et seq. ("RCRA") and regulations promulgated pursuant thereto 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). In order to conduct a study, take any corrective action or enforce the provisions of Subtitle I, section 9005(a) of RCRA, 42 U.S.C. § 6991d(a), authorizes the U.S. Environmental Protection Agency, ("EPA") among other things, to require owners and/or operators of USTs to furnish information relating to such tanks, their associated equipment, and their contents.



Electronic communications have been sent to you and your UST contractor (Independent Petroleum Services – Ted Beck) in February and May of 2008 (see copies attached) requesting information on the above facilities. To date these requests have not been answered.

As an owner and/or operator of the UST Systems at the above referenced facilities, and owner and/or operator of the facility themselves, you are required to submit the following information within five (5) calendar days:

LOWEST PRICE GAS – VAN NESS AUTO CARE
4225 CONNECTICUT AVENUE NW, WASHINGTON, DC

1. Submit a revised UST registration to Sharon Hamilton of DCDOE, which correctly identifies the piping configuration at the facility. Mail a copy of such registration to EPA.

LOWEST PRICE GAS – GEORGETOWN AUTO SERVICES
1576 WISCONSIN AVENUE NW, WASHINGTON, DC

2. Tanks 1 and 2 are manifolded and the Veeder Root TLS 350 was (at the time of the inspection – January 21, 2008) conducting monthly 0.2 gph leak tests. The only Veeder Root method which has been certified for manifolded USTs is CSLD.
 - a. State yes or no, is the Veeder Root at this facility currently performing CSLD?
 - b. If yes, provide documentation as to the date CSLD was installed;
 - c. Provide copies of 12 months of CSLD records for Tanks 1 and 2.
3. Facility representatives indicated at the January 21, 2008 inspection that Manual Tank Gauging (MTG) is the method of release detection being utilized on the waste oil UST. Review of the MTG records reflect that the beginning readings (taken Friday evenings) and the end readings (taken Monday morning) are always identical. It would be extremely unusual that one would get the same readings in the beginning and end for over seven months. During the inspection, the EPA inspector asked the facility operator to demonstrate how he obtained readings. The operator could not get the same reading twice. Please meet with this operator and ensure that s/he is aware of all MTG procedures and ensure that the readings are not being rounded up or down. Provide a letter to EPA documenting this training has occurred – include the name of the operator.
4. During the inspection, the inspector noted that the submersible turbine pump (STP) for Tank 2/3 was equipped with a diesel line leak detector (LLD)

RUCKERSVILLE FOOD MART
13793 SPOTSWOOD TRAIL, RUCKERSVILLE, VA

5. On February 28, 2008, R. McChesney Sterrett of Virginia Department of Environmental Quality issued a Notice of Violation (NOV) to Euclid of Virginia for (among other things) failure to properly register USTs. Submit a revised registration to VADEQ,

ATTN: David Robinett, PO Box 3000, Harrisonburg, VA 22801. Also send a copy of this registration to EPA.

PIEDMONT SERVICE CENTER
19503 JAMES MONROE HIGHWAY, LEESBURG, VA

6. Merrifield Company LC, PO Box 9492, Washington, DC 20016 is the owner of record of this facility. Merrifield Company LC, appears to be a company which is owned and/or controlled by you, Koo Yuen. To date, the used oil (waste oil) UST at this facility has not been registered with VADEQ. Submit a registration for the used oil UST (waste oil) to VADEQ, ATTN: Steve Hughes, 13901 Crown Court, Woodbridge, VA 22193. Also send a copy of the registration to EPA.

All information required by this letter must be submitted to this office to the attention of Marie Owens, Compliance/Enforcement Officer, RCRA Compliance & Enforcement Branch, 3WC31, 1650 Arch Street, Philadelphia, PA 19103 no later than five (5) calendar days from the date of your receipt of this letter. You must also include with the information submitted the following signed and dated certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete.

As used herein, the term "documents" means: writings (handwritten, typed or otherwise produced or reproduced) and includes, but is not limited to, any invoices, checks, receipts, bills of lading, weight receipts, toll receipts, correspondence, offers, contracts, agreements, deeds, leases, manifests, licenses, permits, bids, proposals, policies of insurance, logs, books of original entry, minutes of meetings, memoranda, notes, calendar or daily entries, agendas, bulletins, notices, announcements, charts, maps, photographs, drawings, manuals, brochures, reports of scientific study or investigation, schedules, price lists, telegrams, teletypes, phono records, magnetic voice, or video records, tapes, summaries, magnetic tapes, punch cards, recordings, discs, computer disks, computer printouts, or other data compilations from which information can be obtained or translated.

With regard to the Small Business Regulatory Enforcement and Fairness Act (SBREFA), please see the "Information for Small Businesses" memo, enclosed, which might be applicable to your company. This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, create any rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The

Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action. EPA has not made a determination as to whether or not you (or your company) are covered by the SBREFA.

Failure to provide this information in the manner requested herein and/or within the specified time may result in the commencement of an enforcement action by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e.

This collection of information requirement is not subject to review by the Office of Management and Budget pursuant to the Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520.

You are entitled to assert a claim of business confidentiality covering any part or all of the submitted information in the manner described in volume 40 of the Code of Federal Regulations ("C.F.R."), Section 2.203(b). Information subject to the claim of business confidentiality will be made available to the public only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. Unless a business confidentiality claim is asserted at the time the information is submitted, EPA may make such information available to the public without further notice to you.

If you have any questions concerning this matter, please contact Marie Owens at 215-814-3384.

Sincerely,



Carol Amend, Chief
RCRA Compliance & Enforcement Branch

cc: T. DiFiore (EPA)
R. Ellison (VADEQ)
S. Hughes (VADEQ)
D. Robinett (VADEQ)
R. Hamilton (DCDOE)


CERTIFICATE OF SERVICE

I hereby certify that on the date below I hand-delivered the original and one copy of the attached Complaint and Notice of Opportunity for Hearing to the Regional Hearing Clerk, and caused true and correct copies to be sent via Federal Express to:

Koo Yuen, President
Euclid of Virginia, Inc
4225 Connecticut Avenue
Washington, D.C. 20008

Thomas F. DeCaro, Jr.
DeCaro & Howell, P.C.
Suite 201
14406 Old Mill Road
Upper Marlboro, Maryland 20772-3029

12/24/08
Date



Benjamin D. Fields
Senior Assistant Regional Counsel