



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.II  
2012 MAY -3 P 5:03  
REGIONAL HEARING  
CLERK

May 3, 2012

BY FACSIMILE AND REGULAR MAIL

Honorable M. Lisa Buschmann  
Administrative Law Judge  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Mail Code 1900L  
Washington, D.C. 20460-2001

Re: Valvo's Convenience & Gas, Inc. and Stephen M. Valvo, Individually  
Docket Number: RCRA-02-2011-7507

Dear Judge Buschmann:

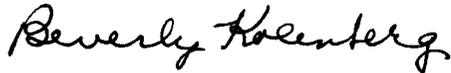
This second status report on the status of any settlement negotiations between the parties is being provided by Complainant pursuant to the February 15, 2012 Order Scheduling Hearing of Judge Barbara A. Gunning. Complainant and Respondents have engaged in several conference calls related to the Respondents' current compliance with the underground storage tank regulations at their facilities and their ability to pay a penalty in this case. At this time, the parties have not come to any agreement on the two open issues – compliance and the amount of the penalty.

Although Respondents have taken steps to come into compliance with the requirements for some of their underground storage tanks, there are still two diesel tanks that need to be addressed. Respondents have proposed a schedule for bringing one of the tanks into compliance, and we expect to have further discussions on the proposed schedule.

In consideration of the Chapter 11 bankruptcy proceeding of Valvo's Convenience & Gas, Inc. in the Bankruptcy Court for the Western District of New York, Respondents provided Complainant with an additional year of federal tax returns so that Complainant could evaluate their ability to pay the proposed penalty. Complainant performed an ABEL analysis which was discussed yesterday with counsel for Respondents by Donald Frankel of the U.S. Department of Justice, who represents EPA in the Bankruptcy Court. The parties concluded that additional financial information would be needed from Respondents to assess accurately Respondents' ability to pay.

Complainant expects to continue to work with Respondents' counsel to clarify the penalty amount and Respondents' progress on compliance.

Respectfully submitted,



Beverly Kolenberg  
Assistant Regional Counsel

Original and One Copy by Hand to:

Karen Maples

Regional Hearing Clerk

U.S. Environmental Protection Agency, Region 2

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Copy by Regular Mail to:

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