

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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HEARINGS CLERK
EPA--REGION 10

In the Matter of:
76 X-PRESS, LLC

Tigard, Oregon

Respondent.

DOCKET NO. RCRA-10-2015-0108

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

I. PRELIMINARY STATEMENT

1.1. This Complaint, Compliance Order, and Notice of Opportunity for Hearing (“Complaint”) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 9006(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6991e(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination, or Suspension of Permits, 40 C.F.R. part 22.

1.2. The EPA Administrator has delegated the authority to issue complaints and compliance orders in Section 9006(a) of RCRA, 42 U.S.C. § 6991e(a), to the Regional Administrator for EPA Region 10, who in turn has redelegated this authority to the Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”).

1.3. This is an action commenced pursuant to Section 9006(a) of RCRA, 42 U.S.C. § 6991e(a), requiring Respondent’s compliance with Section 9003 of RCRA, 42 U.S.C. § 6991b, and the implementing regulations at 40 C.F.R. part 280.

1.4. EPA granted the State of Oregon final authorization to administer and enforce an underground storage tank (“UST”) program for petroleum and hazardous substances under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m, and to carry out such program in lieu of the federal program. RCRA § 9004, 42 U.S.C. § 6991c; 40 C.F.R. part 281, subpart A.

1.5. As a result of the final authorization, the provisions of the federally-approved Oregon Underground Storage Tank Program, including the provisions in the Oregon Administrative Rules (OAR) Chapter 340, Divisions 150 and 151, are requirements of RCRA Subtitle I, and are enforceable by EPA. RCRA § 9006(a), 42 U.S.C. § 6991e(a); 40 C.F.R. § 282.87(d)(1)(i).

1.6. Notification of this action has been given to the Oregon Department of Environmental Quality (“ODEQ”). RCRA § 9006(a)(2), 42 U.S.C. § 6991e(a)(2).

II. GENERAL ALLEGATIONS

2.1. Respondent, 76 X-Press, LLC, is a corporation registered to do business in the State of Oregon.

2.2. Respondent is a “person,” as that term is defined in OAR 340-150-0010(57).

2.3. 76 X-Press (the “Facility”) is located at 12825 Southwest Pacific Highway in Tigard, Oregon.

2.4. For all time periods relevant to this Complaint, Respondent was the “owner” and “permittee” of three “underground storage tank(s)” at the Facility. OAR 340-150-0010(55), (56), (86).

2.5. As the owner and permittee of regulated UST system which is not otherwise exempt or deferred, Respondent must comply with OAR Chapter 340, Divisions 150 and 151. OAR 340-150-0006 to 340-150-0008; OAR 340-151-0010.

2.6. For all time periods relevant to this Complaint, Respondent's Registered Agent, as filed with the Oregon Secretary of State, was Arash Abedini. Respondent's Registered Agent's registered address was 12825 Southwest Pacific Highway in Tigard, Oregon.

2.7. For all time periods relevant to this Complaint, Arash Abedini was one of Respondent's Member/Managers, as filed with the Oregon Secretary of State.

2.8. The unleaded gasoline tank at the Facility is a 12,000 gallon UST that has routinely contained gasoline.

2.9. The super-unleaded gasoline tank at the Facility is a 12,000 gallon UST that has routinely contained gasoline.

2.10. The diesel tank at the Facility is a 12,000 gallon UST that has routinely contained diesel fuel.

2.11. Gasoline and diesel fuel are types of "petroleum" and are "regulated substance(s)." OAR 340-150-0010(48), (58), (66).

2.12. Each underground storage tank at the Facility is part of a separate "UST system." The unleaded UST system includes the unleaded gasoline tank, the super-unleaded UST system includes the super-unleaded gasoline tank, and the diesel UST system includes the diesel tank. OAR 340-150-0010(86), (89).

2.13. Each of the three UST systems at the Facility were installed in 1991, and are "new UST system(s)." OAR 340-150-0550(2).

2.14. Based upon information gathered during EPA inspections and provided by Respondent, Respondent's contractors, and ODEQ, EPA identified violations of RCRA and the OARs, as described in Part III of this Complaint, below.

III. VIOLATIONS

Violation 1: Failure to Respond to an Information Request

3.1 Pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a), EPA issued an Information Request on July 19, 2013, to Arash Abedini, in his capacity as Respondent's Registered Agent and Member, seeking information regarding Respondent's UST systems. The Information Request was sent via certified mail, return-receipt requested.

3.2 On July 25, 2013, Respondent's Registered Agent signed the return-receipt for the certified mail, which contained the Information Request.

3.3 Respondent was required to submit a written response within 14 days of receipt of the Information Request. Accordingly, the written response was due August 8, 2013.

3.4 EPA did not receive a response to the Information Request by August 8, 2013.

3.5 EPA provided Respondent with numerous reminders of its obligation to submit a written response to the Information Request.

3.5.1. On August 15, 2013, EPA contacted Respondent via telephone and informed Respondent that Respondent's required response to the Information Request was overdue. Respondent stated he would respond to the Information Request via email.

3.5.2. On August 16, 2013, EPA sent an email to Respondent to document the telephone conversation from August 15, 2013, including the Respondent's agreement to send its required response to the Information Request via email.

3.5.3. On August 21, 2013, and September 12, 2013, EPA attempted to contact the Respondent by telephone, and left a voice mail to inform Respondent that Respondent's required response to the Information Request remained overdue.

3.5.4. On September 18, 2013, EPA sent an email to inform Respondent that Respondent's required response to the Information Request remained overdue.

3.6 As of the date of this Complaint, Respondent has not responded to EPA's Information Request.

3.7 Respondent was required to furnish information regarding its UST systems upon request by any duly designated representative of EPA. RCRA § 9005(a), 42 U.S.C. § 6991d(a); 40 C.F.R. § 280.34.

3.8 **Violation 1:** From a period of at least August 9, 2013, through the present, Respondent violated Section 9005(a) of RCRA when Respondent failed to respond to EPA's July 19, 2013, Information Request. RCRA § 9005(a), 42 U.S.C. § 6991d(a).

Violation 2: Failure to Maintain Financial Responsibility

3.9 Oregon incorporated the financial responsibility requirements of 40 C.F.R. part 280, subpart H by reference as part of the State of Oregon's federally-approved UST program. OAR 340-151-0015.

3.10 Oregon requires owners and permittees of petroleum USTs at petroleum marketing facilities to demonstrate financial responsibility in accordance with 40 C.F.R. part 280, subpart H, in effect as of February 1, 2003. OAR 340-151-0015.

3.10.1. Respondent was required to demonstrate one million dollars of per occurrence financial responsibility for taking corrective action and for compensating third

parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs. 40 C.F.R. § 280.93(a).

3.10.2. Respondent was required to demonstrate one million dollars of annual, aggregate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs. 40 C.F.R. § 280.93(b).

3.11 Respondent was required to maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility. 40 C.F.R. § 280.111.

3.12 Respondent failed to demonstrate financial responsibility for releases arising from the operation of the three UST systems, by any of the methods set forth in 40 C.F.R. §§ 280.95 through 280.103, from a period of July 13, 2012, through February 28, 2013.

3.13 Respondent failed to demonstrate financial responsibility for releases arising from the operation of the three UST systems, by any of the methods set forth in 40 C.F.R. §§ 280.95 through 280.103, from a period of March 1, 2014, through September 4, 2014.

3.14 **Violation 2:** Respondent violated OAR 340-151-0015, when Respondent was unable to demonstrate financial responsibility for releases arising from the operation of its USTs from July 13, 2012, through February 28, 2013, and March 1, 2014, through September 4, 2014.

Violation 3: Failure to Report a Suspected Release

3.15 Respondent was required to provide a method of release detection which, *inter alia*, can detect a release from any portion of the UST and the underground piping that routinely contains a regulated substance. OAR 340-150-0400.

3.16 Respondent was required to ensure the method of release detection employed for the UST and the underground piping, was installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition. OAR 340-150-0400.

3.17 Respondent was required to notify ODEQ of a suspected release of regulated substance within 24 hours of discovery by the owner, permittee, employee or other knowledgeable personnel of monitoring results or alarms from any release detection method that indicate a release may have occurred from a UST system. OAR 340-150-0500(1)(a).

3.18 Respondent was required to notify ODEQ within 24 hours of monitoring results or alarms from any release detection method that indicate a release may have occurred. The only exception to this reporting requirement is if the monitoring device is found to be defective, immediately repaired, recalibrated or replaced, and subsequent monitoring events do not confirm the initial result. OAR 340-150-0500(1)(c), OAR 340-150-0510.

3.19 During an inspection on March 12, 2013, inspectors found Respondent's monitoring system to have multiple alarm warnings disabled, including alarms which exist to notify owners and permittees when Respondent's annual tank, annual line tightness, and periodic line tightness tests were needed, and including alarms which exist to notify owners and permittees when Respondent's UST systems are leaking, overfilled, or contain too much water.

3.20 During an inspection on March 12, 2013, Respondent's monitoring system contained records of fuel alarms for fuel in the turbine sumps to the UST systems.

3.20.1. A fuel alarm for the turbine sump to the unleaded UST system was recorded on February 18, 2012.

3.20.2. Fuel alarms for the turbine sump to the super-unleaded UST system were recorded on January 16, 2011; April 24, 2011; September 16, 2011; October 6, 2011; November 4, 2011; January 13, 2012; February 16, 2012; May 6, 2012; July 24, 2012; January 10, 2013; February 8, 2013; and March 1, 2013.

3.20.3. Fuel alarms for the turbine sump to the diesel UST system were recorded on May 14, 2011; September 16, 2011; October 6, 2011; November 4, 2011; January 13, 2012; February 16, 2012; February 19, 2012; September 18, 2012; January 10, 2013; February 8, 2013; and March 1, 2013.

3.21 Respondent has produced no information indicating Respondent followed any of the alarms identified in Paragraphs 3.20.1 through 3.20.3 with the immediate repair, recalibration or replacement of equipment, followed by a subsequent monitoring event that did not confirm the initial result.

3.22 As of the date of the inspection on March 12, 2013, Respondent had not notified ODEQ of a suspected release of regulated substance.

3.23 **Violation 3:** Respondent violated OAR 340-150-0500(1)(c) from at least January 17, 2011, through March 12, 2013, when Respondent failed to report one or more suspected releases from each of its three UST systems.

Violation 4: Failure to Investigate a Suspected Release

3.24 Following the discovery of a suspected release of a regulated substance, Respondent was required to immediately initiate investigation and confirmation of the suspected release as required by OAR 340-150-0510. This investigation must be completed within seven days or as otherwise approved or directed by ODEQ. OAR 340-150-0510(1).

3.24.1. Respondent's monitoring system recorded fuel alarms for fuel in the turbine sumps to the UST systems in calendar year 2011 on January 16, April 24, May 14, September 16 (2 UST systems), October 6 (2 UST systems), and November 4 (2 UST systems).

3.24.2. Respondent's monitoring system recorded fuel alarms for fuel in the turbine sumps to the UST systems in calendar year 2012 on January 13 (2 UST systems), February 16 (2 UST systems), February 18, February 19, May 6, July 24, and September 18.

3.24.3. Respondent's monitoring system recorded fuel alarms for fuel in the turbine sumps to the UST systems in calendar year 2013 on at least January 10 (2 UST systems), February 8 (2 UST systems), and March 1 (2 UST systems).

3.25 Upon expiration of the seven day period or other period approved by ODEQ, Respondent was required to notify ODEQ of the investigation results by submitting to ODEQ either a written description of the system test and the results of any tests used to confirm a release did not occur, or a written plan of action with a firm schedule for completion of the site assessment or suspected release investigation system test. OAR 340-150-0510(2).

3.26 On March 12, 2013, an EPA inspector informed Respondent of what appeared to be a significant amount of gasoline in the turbine sump to the super-unleaded UST system. The inspector informed Respondent of this situation and the possibility that fuel may have been released.

3.26.1. On April 19, 2013, an EPA inspector measured fuel present in the turbine sump to the super-unleaded UST system, and found the fuel was up to 12.75 inches deep, without a discrete water layer underneath.

3.26.2. On April 19, 2013, Respondent confirmed that the fuel observed on March 12, 2013, had not been removed, and that investigation and confirmation of the suspected release had not been conducted.

3.27 On April 24, 2013, Respondent contracted CCS, a division of Pacific Northwest Environmental Corp., to pump out approximately 61 gallons of “UN1203 Flammable Liquid NOS (Gasoline, Water), 3, PG II” from “turbine sumps and spill buckets” at the Facility.

3.28 Despite evidence of the release of a regulated substance and removal of that regulated substance from the facility, Respondent did not initiate investigation and confirmation of a suspected release until April 7, 2014.

3.29 The investigation which was initiated on April 7, 2014, confirmed fuel had leaked from the super-unleaded UST system.

3.30 Respondent first submitted preliminary lab data to the ODEQ on April 11, 2014.

3.31 **Violation 4:** Respondent violated OAR 340-150-0510 from at least January 24, 2011, through April 6, 2014, when Respondent failed to immediately investigate a suspected release.

Violations 5 and 6: Failure to Provide Release Detection for Piping

3.32 Respondent was required to ensure that the pressurized underground piping associated with its UST systems was equipped with an ALLD. OAR 340-150-0410(2)(a).

3.32.1. Each of Respondent's UST systems have pressurized lines that are each equipped with an automatic line leak detector ("ALLD").

3.33 Respondent was required to ensure that its ALLDs were capable of detecting a leak of three gallons per hour at ten pounds per square inch line pressure within one hour and to conduct an annual test of the operation of the ALLD in accordance with the manufacturer's requirements. OAR 340-150-0410(2)(b)-(c)

3.34 Respondent was required to test the pressurized piping for its UST systems at least annually, either through a line tightness test ("LTT") or an interstitial monitoring test. OAR 340-150-0410(3).

3.35 Respondent was required to retain, at a minimum, the last completed LTT and ALLD test, or the most current 12 consecutive months of release detection records for piping. OAR 340-150-0410(8).

3.36 On March 12, 2013, Respondent did not have records of any LTT or ALLD test, or other form of release detection, conducted within the prior 12 months.

3.36.1. On March 12, 2013, Respondent's most recent LTT and ALLD tests for Line 1, Line 2, and Line 3 were conducted on February 18, 2012.

3.36.2. After February 18, 2012, Respondent's next successful LTT or interstitial monitoring test for Line 1, Line 2, and Line 3 did not occur until May 23, 2013.

3.36.3. After May 23, 2013, Respondent's next successful LTT or interstitial monitoring test for Line 2 did not occur until August 22, 2014.

3.36.4. After February 18, 2012, Respondent's next successful ALLD test for Line 1 and Line 3 did not occur until May 23, 2013.

3.36.5. After February 18, 2012, Respondent's next successful ALLD test for Line 2 did not occur until August 22, 2014.

3.37 **Violation 5:** Respondent violated OAR 340-150-0410(3) when Respondent failed to test the pressurized piping at least annually, either through a LTT or an interstitial monitoring test.

3.36.1. Respondent violated OAR 340-150-0410(3) for Line 1, Line 2, and Line 3 from at least February 19, 2013, through May 22, 2013.

3.36.2. Respondent violated OAR 340-150-0410(3) for Line 2 from at least May 24, 2014, through August 21, 2014.

3.38 **Violation 6:** Respondent violated OAR 340-150-0410(2)(c) when Respondent failed to conduct an annual test of the operation of the ALLD in accordance with the manufacturer's requirements.

3.37.1. Respondent violated OAR 340-150-0410(2)(c) for Line 1 and Line 3 from at least February 19, 2013, through May 22, 2013.

3.37.2. Respondent violated OAR 340-150-0410(2)(c) for Line 2 from at least February 19, 2013, through August 21, 2014.

Assessment of Civil Penalties

3.39 Section 9006(d)(2) of RCRA, 42 U.S.C. § 6991e(d)(2), as modified by the Debt Collection Improvement Act of 1996 and the regulations promulgated thereunder at 40 C.F.R.

part 19, authorizes the assessment of civil penalties for violations occurring after January 12, 2009, of up to \$16,000 for each tank for each day during which the violations occurred.

IV. COMPLIANCE ORDER

Compliance Tasks

4.1. Based on the foregoing findings, Respondent is hereby ordered to take the following actions:

4.1.1. Respondent shall conduct the first set of ALLD tests and LTTs within one year of the last successful ALLD tests and LTTs. If that time period has already elapsed, Respondent shall conduct the first set of ALLD tests and LTTs within 30 days of the effective date of this Compliance Order. Respondent shall conduct a second set of ALLD tests and LTTs no later than one year after the first set of tests. Respondent shall submit copies of the test reports from the abovementioned tests to the EPA within 30 calendar days of completion of each test.

4.1.2. Respondent shall submit copies of the financial assurance used to satisfy 40 C.F.R. part 280, subpart H for each tank at the Facility within 30 days of the effective date of this Compliance Order. Within 30 days of the start of the next method used to demonstrate financial responsibility, Respondent shall submit copies of the financial assurance used to satisfy 40 C.F.R. part 280, Subpart H for each tank at the Facility.

4.1.3. Annual ALLD/LTT test reports and documentation of financial assurance required under this Compliance Order shall be submitted to Katherine Griffith, EPA Compliance Officer, at the following addresses.

Katherine Griffith, Compliance Officer
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-101
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
Tel: 206-553-2901
Email: griffith.katherine@epa.gov

4.1.4. Upon request by EPA, Respondent shall provide EPA access to all records and documentation related to the conditions at the Facility and to all results and data pertaining to the UST systems under this Compliance Order.

4.1.5. The information requested in this Compliance Order is not subject to the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501-3521.

4.2. This Complaint shall be effective on the date that a Final Order is issued or the date that this Compliance Order becomes a Final Order by default, pursuant to Section 9006(b) of RCRA, 42 U.S.C. § 6991e(b), and 40 C.F.R. § 22.37(b).

4.3. Pursuant to Section 9006(b) of RCRA, 42 U.S.C. § 6991e(b), and 40 C.F.R. § 22.37(b), this Compliance Order, including the assessment of the civil penalty, shall automatically become a Final Order unless Respondent requests a hearing within 30 days of service of this Complaint, pursuant to 40 C.F.R. § 22.15.

Assessment of Civil Penalties

4.4. Based on the foregoing allegations, and pursuant to the authority provided by Section 9006(d)(2) of RCRA, 42 U.S.C. § 6991e(d)(2), Complainant proposes that an administrative penalty of \$60,055 be assessed against Respondent.

4.5. The penalty specified in Paragraph 4.4 was determined based upon consideration of the facts alleged in this Complaint and after taking into account the seriousness of the

violations, any good faith efforts by Respondent to comply with the applicable requirements, and Respondent's compliance history.

4.6. The penalty specified in Paragraph 4.4 was calculated in accordance with the November 1990 "U.S. EPA Penalty Guidance for Violations of UST Requirements," as amended on April 6, 2010, a copy of which accompanies this Complaint.

4.7. After this Complaint becomes a Final Order, if Respondent fails to comply with the requirements of this Compliance Order within the time specified, EPA may seek the imposition of penalties of up to \$37,500 for each day of continued noncompliance, in addition to any other penalties that may be assessed for past or ongoing violations. RCRA § 9006(a), 42 U.S.C. § 6991e(a), 40 C.F.R. part 19.

Payment of Civil Penalties

4.8. Payment of the penalty assessed by the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

Respondent must note on the check the title and docket number of this action.

4.9. If Respondent fails to pay any portion of the penalty assessed by the Final Order by its due date, the entire unpaid balance of the penalty and accrued interest shall become

immediately due and owing. Such a failure may also subject Respondent to an administrative action to collect payment under the federal Debt Collection Act of 1982, as amended, or to a civil action to collect the assessed penalty plus interest, handling charges, and nonpayment penalties as set forth below:

4.9.1. Interest. Any unpaid portion of the assessed penalty shall bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order contained herein.

4.9.2. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the assessed penalty is more than 30 days past due.

4.9.3. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on portion of the assessed penalty that is more than 90 days past due, which nonpayment shall be calculated as of the date the underlying penalty first becomes past due.

4.10. Concurrently with payment, Respondent must serve scans or photocopies of the check, or proof of other payment method, described above in Paragraph 4.8, to the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
smith.candace@epa.gov

Katherine Griffith, Compliance Officer
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-101
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
griffith.katherine@epa.gov

4.11. All penalties and charges paid pursuant to the Final Order are administrative civil penalties and are not deductible for federal tax purposes. 26 U.S.C § 162(f).

V. OPPORTUNITY TO REQUEST A HEARING AND FILE ANSWER

5.1. Under Section 9006(b) of RCRA, 42 U.S.C. § 6991e(b), and 40 C.F.R. § 22.15, Respondent has a right to request a hearing on the issues raised in this Order. Any such hearing would be conducted in accordance with 40 C.F.R. part 22 (“Part 22 Rules”). A copy of the Part 22 Rules accompanies this Complaint.

5.2. A request for a hearing must be incorporated in a written Answer filed with the Regional Hearing Clerk within 30 days of service of the Complaint. Respondent’s Answer must clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint with regard to which Respondent has any knowledge. Respondent’s Answer must also state: (1) the circumstances or arguments which are alleged to constitute the grounds of any defense; (2) the facts that Respondent disputes; (3) the basis for contesting the appropriateness of the proposed penalty or compliance actions required, and (4) whether a hearing is requested. Where Respondent has no knowledge as to a particular factual allegation and so states, the allegation is deemed denied. Failure to admit, deny or explain any material factual allegations contained herein constitutes an admission of the allegation. 40 C.F.R. § 22.15.

5.3. Respondent’s Answer, including any request for hearing, must be in writing and

must be filed with:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
Tel: 206-553-6524
Email: smith.candace@epa.gov

VI. FAILURE TO FILE AN ANSWER

6.1. To avoid a default order being entered, Respondent must file a written Answer to this Complaint with the Regional Hearing Clerk within 30 days of service of this Complaint.

40 C.F.R. § 22.17.

6.2. As provided in 40 C.F.R. § 22.18(a)(1), Respondent may resolve the proceeding at any time by paying the specific penalty proposed in the Complaint, and by filing with the Regional Hearing Clerk a copy of the check or other instrument of payment in the manner described above, under "Payment of Civil Penalties." If the Respondent agrees to the Compliance Order and pays the proposed penalty in full within 30 days after receiving the Complaint, no Answer need be filed. Respondent can obtain a 30 day extension to pay the proposed penalty in full without filing an Answer by complying with the requirements of 40 C.F.R. § 22.18(a)(2).

VII. INFORMAL SETTLEMENT CONFERENCE

7.1. Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this case, the proposed penalty, and the possibility of settling this matter. To request such a settlement conference, Respondent should

contact:

Christopher Bellovary
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-2723

7.2. A request for an informal settlement conference does not extend the 30 day period for filing a written Answer to this Complaint, nor does it waive Respondent's right to request a hearing.

7.3. Respondent is advised that, after the Complaint is issued, the Part 22 Rules prohibit any *ex parte* (unilateral) discussion of the merits of these or any other factually related proceedings with the Administrator, the Environmental Appeals Board or its members, the Regional Judicial Officer, the Presiding Officer, or any other person who is likely to advise these officials in the decision of this case. 40 C.F.R. § 22.8.

VIII. RESERVATIONS

8.1. Neither assessment nor payment of an administrative civil penalty pursuant to this Complaint shall affect Respondent's continuing obligation to comply with: (1) RCRA and all other environmental statutes; (2) the terms and conditions of any applicable permits; and (3) any Compliance Order issued to Respondent under Section 9006(a) of RCRA, 42 U.S.C. § 6991e(a), concerning the violations alleged within this Complaint.

FOR COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY:


EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement
EPA Region 10

Dated: 6/9/2015

PARTY DESIGNATED TO RECEIVE SERVICE ON BEHALF OF THE COMPLAINANT:

Chris Bellovary, Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
Tel: 206-553-2723
Email: bellovary.chris@epa.gov

Certificate of Service

The undersigned certifies that the original of the attached **COMPLAINT, COMPLIANCE ORDER, AND NOTICE OF OPPORTUNITY FOR HEARING, In the Matter of: 76 X-PRESS, LLC, Docket No.: RCRA-10-2015-0108**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

Christopher Bellovary, Esquire
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Arash Abedini
Registered Agent
76 X-Press, LLC
12825 Southwest Pacific Highway
Tigard, Oregon 97223

DATED this 10th day of June, 2015.



CANDACE H. SMITH
Regional Hearing Clerk
EPA Region 10

