



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

February 27, 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

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
2012 FEB 27 P 2:37
REGIONAL HEARING
CLERK

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

Dear Judge Buschmann:

This first status report is being provided pursuant to the February 23, 2012 email request of your Legal Staff Assistant Knolyn Jones. On June 3, 2011, the U.S. Environmental Protection Agency, Region 2 ("Complainant") filed a Complaint, Compliance Order and Notice of Opportunity for Hearing ("Complaint") in the above-referenced matter. Respondents filed a joint Answer to the Complaint on July 12, 2011. Complainant subsequently submitted a Motion for Change in Name of Corporate Respondent on December 8, 2011. The Motion was granted by Judge Barbara A. Gunning on December 21, 2011. The Order on Motion for Change in Name of Corporate Respondent stated that although the change requested is ministerial, the filing of amended complaint is needed. Complainant has drafted an Amended Complaint which will be circulated for concurrence and is expected to be served and filed with the Regional Hearing Clerk by the middle of March. Respondents shall have twenty days from the date of service to file an amended answer, if they choose to do so.

Pursuant to the October 19, 2011 Prehearing Order of Judge Gunning, the parties have completed their prehearing exchange of information. Respondents claimed in their Prehearing Exchange that the Paperwork Reduction Act ("PRA"), 44 U.S.C. §§ 3501 – 3521 applies to this case, and Complainant is thereby barred from imposing any penalty against Respondents. On February 7, 2012, Judge Gunning issued an Order on the Applicability of the Paperwork Reduction Act rejecting Respondents' arguments and holding that the PRA does not present a valid defense for Respondents.

Complainant and Respondents have discussed compliance and penalty issues in their efforts to explore a settlement of this case. Counsel for Complainant expects to speak with Respondents' counsel later this week to discuss Respondents' progress on compliance and Complainant's proposal for a settlement of the proposed penalty.

On February 15, 2012, Judge Gunning issued an Order Scheduling Hearing in this case. In accordance with the Order Scheduling Hearing, Complainant will file a Status Report on or before April 27, 2012 unless Your Honor would prefer a Status Report before that date.

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
290 Broadway, 16th Floor
New York, New York 10007-1866

Copy by Regular Mail to:
Valvo Convenience and Gas, Inc.
Stephen M. Valvo, Individually
1271 Routes 5 and 20
Silver Creek, New York 14136

Paul A. Chiaravallotti, Esq.
Counsel for Respondents
1967 Wehrle Drive, Suite 1
Williamsville, New York 14221