



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FEB 22 2011

REPLY TO THE ATTENTION OF:

LR-8J

CERTIFIED MAIL #: 7001 0320 0005 8922 0652
RETURN RECEIPT REQUESTED

Ms. Zona Raddatz
Lowell's Tire
39946 U.S. Highway 71
La Porte, Minnesota 56461

Re: Lowell's Tire Field Citation RUST-05-2011-0009

BD# **2751106M009**

Dear Ms. Raddatz:

On August 26, 2010, the U.S. Environmental Protection Agency issued a Notice of Violation and Compliance Order/Settlement Agreement (Field Citation) concerning violations found at Lowell's Tire, located at 39946 U.S. Highway 71 in La Porte, Minnesota.

This is to inform you that we received your signed original copy of the Settlement Agreement, dated January 12, 2011, and the check for \$630.00 in penalties. We have reviewed the original copy of the Settlement Agreement where you have indicated that the violations of the underground storage tanks regulations for which you were cited have been corrected.

The Settlement Agreement states that it is effective upon EPA's final approval. This is to inform you that I have enclosed a signed and dated copy of the approved Settlement Agreement. The original Settlement Agreement will remain in EPA files. We also have accepted and processed your check as part of the settlement process. If you have any further questions, please feel free to contact Mark Restaino, of my staff, at (312) 886-0394.

Sincerely,

Gary Victorine, Acting Chief
RCRA Branch
Land and Chemicals Division

Enclosure

cc: Robert Dullinger – Minnesota Pollution Control Agency (MPCA)

U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA) REGION 5
 77 West Jackson Boulevard (LR-8J), Chicago, Illinois 60604-3590

UNDERGROUND STORAGE TANK (UST) FIELD CITATION FORM FOR EXPEDITED SETTLEMENT NO. R5-UST-10-001-MR

PART I: INSPECTION SUMMARY

On: 08/26/2010 Time: 02:43 PM

At: Lowell's Tire
 Address: 39946 U.S. Highway 71
La Porte, MN 56461

Lowell and Zona Raddatz
 (Name of Site Representative if not the Owner or Operator)

Name and address of the UST Owner

Name: Lowell and Zona Raddatz
 Address: 39946 U.S. Highway 71
La Porte, MN 56461

A duly designated officer, employee, or representative of the EPA or a duly designated officer or employee of the State or Tribe inspected this facility. EPA has reviewed the inspection report and other relevant materials and has identified the following violation(s) of the UST regulations promulgated or approved by EPA under Subtitle I of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. § 6991 et seq).

1. Violation: Failure to monitor tanks at least every 30 days, if appropriate
 Cite: State Reg. No. 7150.0310 item A. (12/31/2001)
[40 CFR 280.41(a)]
 Proposed Penalty: \$420

2. Violation: Failure to provide adequate line leak detector system for underground piping
 Cite: State Reg. No 7150.0340 item A. (12/31/2001)
[40 CFR 280.44(a)]
 Proposed Penalty: \$210

3. Violation:
 Cite: State Reg. No. 0
[40 CFR]
 Proposed Penalty:

4. Violation:
 Cite: State Reg. No. 0
[40 CFR]
 Proposed Penalty:

TOTAL PROPOSED PENALTY: \$630

EPA finds the Owner or Operator in violation of the above referenced UST regulations.

Mark Restan 8/26/10
 (Signature of EPA Inspector) (Date)

Part II: SETTLEMENT AGREEMENT/COMPLIANCE ORDER

A. Settlement Agreement: The Owner or Operator by signing this Settlement Agreement (or by having an authorized representative sign it) agrees to settle the violations identified in Part I, subject to the following terms and conditions:

The Owner or Operator certifies, subject to civil and criminal penalties for making a false submission to the U. S. Government, that he or she has corrected the violations, submitted true and accurate documentation of their correction, and submitted payment to the U.S. Treasury for the amount of \$630 in payment of the full proposed penalty amount, as described in Part I of this Form.

The Owner or Operator agrees to comply with the terms of the Compliance Order in Part II.B. Without admitting liability for the violations cited in Part I, the Owner or Operator signing below waives any objections to EPA's jurisdiction with respect to the Compliance Order and this Settlement Agreement, and consents to EPA's final approval of this Settlement Agreement without further notice. The Owner or Operator waives the opportunity for a public hearing pursuant to RCRA section 9006.

Once EPA signs the Settlement Agreement, EPA will take no further enforcement action against the Owner or Operator for the civil violations described in Part I, provided the violations have been timely corrected and the penalty has been paid. EPA does not waive its right to enforce against the Owner or Operator for any other violations not described in Part I and violations of the UST requirements or other requirements listed in Part I that were not corrected in a timely manner.

This Settlement Agreement and Compliance Order will become effective once signed by EPA and is binding on EPA and the Owner or Operator upon signature by both parties. Final approval of the Settlement Agreement and Compliance Order is in the sole discretion of the Regional Administrator, Region 5, EPA, or his or her authorized delegate. Upon final approval, EPA shall mail a copy of this document to the Owner or Operator signing below.

SIGNATURE BY OWNER, OPERATOR, OR AUTHORIZED REPRESENTATIVE:

Name (Print): Zona Raddatz
 Title (Print): Owner
 Signature: Zona Raddatz Date: 1-12-11

B. Compliance Order: This Compliance Order is issued under the authority of RCRA section 9006 to resolve the civil violations identified in Part I. The Owner or Operator is ordered to correct the violations, submit true and accurate documentation that the violations were corrected, and pay the total penalty amount listed in Part I of this Form. This Compliance Order shall become final and enforceable only upon signature by an EPA official with the authority to sign this document.

Name (Print): Gary J. Victorine
 Title (Print): Acting Chief, RCRA Branch
 Signature: Gary J. Victorine Date: 2/16/2011

Notes:

RECEIVED
 FEB 22 2011

**NOTICE OF VIOLATION AND
COMPLIANCE ORDER / SETTLEMENT AGREEMENT**

INSTRUCTIONS

The United States Environmental Protection Agency (EPA) has authority under Section 9006 of the Resource Conservation and Recovery Act to issue Compliance Orders and to pursue civil penalties for violations of the underground storage tank regulations. However, the EPA encourages the expedited settlement of easily verifiable violations of underground storage tank regulations, such as the violations described in the Notice of Violation, by agreeing to standard settlement terms that include expedited correction of the violation and payment of appropriate penalties.

You may resolve the cited violations quickly by correcting the violations, paying the penalty amounts and signing and returning the Settlement Agreement within 30 days of the issuance of the Notice of Violation. EPA, at its discretion, may grant one 30 day extension for the period to come into compliance where the owner or operator satisfactorily demonstrates that it is technically infeasible or impracticable to achieve compliance within 30 days.

The payment of the penalty amounts must be in the form of a certified check payable to the "Treasurer of the United States of America," with the UI # (located in the upper right hand corner of the Settlement Agreement) written on the check.

Two (2) original signed Settlement Agreements and a copy of the check shall be sent to:

**U.S. Environmental Protection Agency
Region 5 – Underground Storage Tank Program
77 West Jackson Boulevard (LR-8J)
Chicago, Illinois 60604-3590**

The check along with a copy of the signed Settlement Agreement shall be sent to:

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

EPA will not approve the Settlement Agreement if there is any alteration of the Notice of Violation and Compliance Order/Settlement Agreement or payment of less than the full amount of penalties, or if the Settlement Agreement is not returned in the time allowed. EPA will treat any response to the Notice of Violation other than timely acceptance of the Settlement Agreement as an indication that you are not interested in pursuing this expedited settlement procedure.

If the Settlement Agreement is not returned in proper form and full payment of penalties made within 30 days after issuance, unless an extension has been granted by EPA, the Compliance Order will be automatically withdrawn, without prejudice to EPA's ability to file additional enforcement actions for the above or any other violations. Failure to return the Settlement Agreement and pay the penalty amounts within the time allowed does not relieve you of the responsibility to comply fully with the regulations, including correcting the violations that have been specifically identified by the EPA Enforcement Officer.

This Notice of Violation and Compliance Order/Settlement Agreement is not an adjudicatory proceeding under 40 CFR Part 22, the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits. However, if EPA pursues administrative enforcement measures in order to correct the violations or to seek penalties, you will receive instructions describing your rights under those rules. By agreeing to this Settlement Agreement, you waive your right to a public hearing pursuant to Section 9006 of the Resource Conservation and Recovery Act.

Final approval of the Settlement Agreement is in the sole discretion of the Regional Administrator, EPA Region 5, or authorized delegate. Upon EPA final approval, a copy of the approved Settlement Agreement will be returned to you, and EPA will take no further action against you for these violations.

If you have any questions, you may contact the EPA Region 5 UNDERGROUND STORAGE TANK PROGRAM at (312) 886-6159.