

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY 2008 JUN 23 PM 3:34

BEFORE THE ADMINISTRATOR

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IN THE MATTER OF:)
)
THE THREE AFFILIATED TRIBES) Docket No. RCRA-08-2008-0001
and SHARON JACOBS, individually,)
HIGHWAY 8 CONVENIENCE STORE,)
)
THE THREE AFFILIATED TRIBES) Docket No. RCRA-08-2008-0002
and YOLANDA BEARS TAIL, individually,)
WHITE SHIELD REE STORE,)
)
THE THREE AFFILIATED TRIBES) Docket No. RCRA-08-2008-0003
and DAVE WILLIAMS, individually,)
WEST DAKOTA SERVICE,)
)
)
Respondents)

ORDER ON COMPLAINANT'S MOTION TO CONSOLIDATE

By Motion dated June 6, 2008, Complainant moved to consolidate the above-captioned actions into one administrative action. The Motion indicates that the Respondents concur with the consolidation. For the reasons stated below, the Motion is GRANTED.

Rule 22.12(a) of the Consolidated Rules of Practice (40 C.F.R. § 22.12(a)) governing these matters provides in pertinent part:

The Presiding Officer...may consolidate any or all matters at issue in two or more proceedings subject to these Consolidated Rules of Practice where: there exist common parties or common issues of fact or law; consolidation would expedite and simplify consideration of the issues; and consolidation would not adversely affect the rights of parties engaged in otherwise separate proceedings.

These three proceedings were all commenced by Complaints filed on December 14, 2007. In support of the Motion, Complainant states that the parties have agreed to a settlement in principle and that consolidating these matters will expedite and simplify their resolution by allowing the

parties to file a single Consent Agreement fully resolving all alleged violations in each separate matter. Complainant asserts that the settlement is to be fully paid and performed by the Three Affiliated Tribes, the owner of the facilities at issue in the Complaints, with no obligations imposed on the individual Respondents. In all three actions all Respondents are represented by the same attorney, Mr. Williams, and Tribes' Environmental Director, Mr. Elton Spotted Horse. Mr. Williams, on behalf of all Respondents, affirmatively supports consolidation. There are no other parties engaged in separate proceedings that may be unduly prejudiced by the consolidation of these three matters. In addition, all three matters share common issues of fact and law pertaining to underground storage tank regulations at 40 C.F.R. § 280 Subpart D and Section 9006 of the RCRA, 42 U.S.C. § 6991e.

In these circumstances, it is concluded that consolidation is appropriate. Accordingly, the proceedings listed above are hereby consolidated pursuant to 40 C.F.R. § 22.12(a).



Susan L. Biro
Chief Administrative Law Judge

Date: June 19, 2008
Washington, D.C.

In the Matter of The Three Affiliated Tribes and Sharon Jacobs, individually, Highway 8 Convenience Store; The Three Affiliated Tribes and Yolanda Bears Tail, individually, White Shield Ree Store and The Three Affiliated Tribes and Dave Williams, individually, Respondents
Docket Nos. RCRA-08-2008-001; RCRA-08-2008-0002 and RCRA-08-2008-0003

CERTIFICATE OF SERVICE

I certify that the foregoing **Order On Complainant's Motion To Consolidate**, dated June 19, 2008, was sent this day in the following manner to the addressees listed below.



Maria Whiting-Beale
Staff Assistant

Dated: June 19, 2008

Original And One Copy By Pouch Mail To:

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Three Affiliated Tribes
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