



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

March 19, 2012

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. Blain Vinson
Chief Operating Officer
Al Kel Alliance, Inc.
2012 N. Goode Road
Wilmer, TX 75172

Re: In the Matter of Al Kel Alliance, Inc.
EPA Docket No.: RCRA 06-2012-0926

Dear Mr. Vinson:

Enclosed herein is a Complaint, Compliance Order, and Notice of Opportunity for Hearing (Complaint) issued to Al Kel Alliance, Inc., (Al Kel), located in Wilmer, TX. Pursuant to the Resource Conservation and Recovery Act of 1976 (“RCRA”) 42 U.S.C. § 6901 et seq., as amended, this Complaint sets forth Al Kel’s failure to comply with Subtitle C of RCRA and the regulations promulgated thereunder. These violations were identified during a Compliance Evaluation Inspection conducted on September 2 and September 6 of 2011.

We would like to call your attention to that part of the Complaint entitled “Opportunity to Request a Hearing.” Should you request such a hearing, your written request must be filed with the Regional Hearing Clerk within thirty (30) days of the service of this Complaint.

You have the right to be represented by your attorney at any stage of these proceedings. Please be advised that the Consolidated Rules of Practice at 40 C. F. R. 22.8 prohibit unilateral discussion of the merits of the case with the Regional Administrator, the Regional Judicial Officer, or the Administrative Law Judge after the issuance of the Complaint.

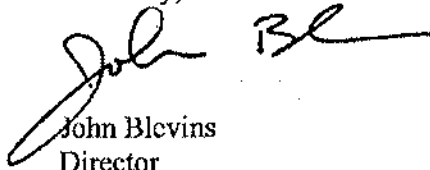
Whether or not you request a hearing, we invite you to confer informally with the EPA concerning the Complaint. EPA encourages all parties against whom it takes action to pursue the possibility of settlement through an informal conference. A request for an informal conference does not extend the time by which you must request a hearing.

Re: Al-Kel Alliance, Inc.

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If you have any questions regarding this matter, please contact EPA attorney Tom Rucki at (214) 665-2759 or EPA enforcement officer Gabriel Salinas at (214) 665-8483.

Sincerely,

A handwritten signature in black ink, appearing to read "John Blevins". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

cc: Walt James
James PLLC
The Renaissance
1117 Glade Road, Suite 140
Colleyville, TX 76034

FILED

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

2012 MAR 19 PM 2:43
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:)

AL-KEL ALLIANCE, INC.)
WILMER, TEXAS)

RESPONDENT)
_____)

DOCKET NO. RCRA 06-2012-0926

ADMINISTRATIVE COMPLAINT

The Complainant, the Director of the Compliance Assurance and Enforcement Division of the United States Environmental Protection Agency (EPA), issues this Administrative Complaint (Complaint) to Al-Kel Alliance, Inc. (Respondent).

STATEMENT OF AUTHORITY

1. This Complaint is issued pursuant to Section 3008(a) of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. § 6928(a) and will be conducted in accordance with the provisions of the Administrative Procedures Act, 5 U.S.C. § 551 *et seq.*, and the Consolidated Rules of Practice, codified at 40 C.F.R. Part 22. Section 3008(a) of RCRA provides that whenever, on the basis of any information, the Administrator of the EPA determines that any person has violated or is violating any requirement of Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939e, the Administrator may issue an order assessing a civil penalty for any past or current violation or requiring compliance, or both. The requirements of Subtitle C include the requirements of the authorized program in a State which has been authorized to carry out a hazardous waste program under Section 3006 of RCRA, 42 U.S.C.

- § 6926. When a State obtains such authorization, EPA enforces the State program in lieu of the federal RCRA regulations in that state.
2. On December 26, 1984, the State of Texas received final authorization for its base RCRA program, and there have been subsequent authorized revisions to Texas' program (49 Fed. Reg. 48,300). With the addition of Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), new requirements imposed pursuant to the authority of the Hazardous and Solid Waste Amendments of 1984 are immediately applicable in the authorized States upon the federal effective date. The Texas Commission on Environmental Quality (TCEQ) is the State agency designated to maintain the authorized RCRA program in Texas.
 3. The Director, Compliance Assurance and Enforcement Division, EPA Region 6, is the person to whom the authority has been delegated to issue Complaints in the States of Arkansas, Louisiana, Oklahoma, New Mexico, and Texas.
 4. Notice of this action was given to TCEQ as required by Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

ALLEGATIONS

5. Respondent is a corporation incorporated in and under the laws of the State of Texas and was authorized to do business in Texas in October 2001. Respondent is a "person" as that term is defined in 30 T.A.C. § 3.2(25), Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 40 Code of Federal Regulations (C.F.R.) § 260.10 and 270.2.
6. Respondent's Registered Agent for service in the State of Texas is James Edward Alexander, Jr., 500 N. Willow, Sherman, TX 75090.

7. "Owner" is defined in 30 T.A.C. § 335.1(108) (40 C.F.R. § 260.10) as "the person who owns a facility or part of a facility."
8. "Operator" is defined in 30 T.A.C. § 335.1(107) (40 C.F.R. § 260.10) as "the person responsible for the overall operation of a facility."
9. "Owner or operator" is defined in 40 C.F.R. § 270.2 as "the owner or operator of any facility or activity subject to regulation under RCRA."
10. "Facility" is defined in 30 T.A.C. § 335.1(59)(A) (40 C.F.R. § 260.10) as meaning "all contiguous land, and structures, other appurtenances, and improvements on the land, used for storing, processing, or disposing of municipal hazardous waste or industrial solid waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them)."
11. Respondent owns and/or operates a container and tank trailer cleaning facility along with all contiguous land and structures, other appurtenances and improvements at 2012 N. Goode Road in Wilmer, TX (Facility).
12. The Respondent's Facility is a "Facility" as that term is defined at 30 T.A.C. § 335.1, (40 C.F.R. § 260.10).
13. The Respondent is the "owner" and/or "operator" of the facility identified above, as those terms are defined in 30 T.A.C. § 335.1(107) - (108) (40 C.F.R. §§ 260.10 and 270.2).
14. The Facility consists of a 12-acre site operating an Office Building with wash bays located on either side that are known as the North Bay and South Bay, a Maintenance Shop, a Container Granulator, a Waste Water Treatment System, and a Heels Storage Area. The remaining property has been used to store thousands of containers.

15. Respondent is a "Generator" as that term is defined in 30 T.A.C. § 335.1 (40 C.F.R. § 260.10).
16. On Respondent's Notice of Registration dated January 3, 2008, Respondent is listed as a Conditionally Exempt Small Quantity Generator as defined in 30 T.A.C. § 335.78 (40 C.F.R. § 261.5).
17. Pursuant to 30 T.A.C. § 335.78 (40 C.F.R. § 261.5), a generator is a conditionally exempt small quantity generator in a calendar month if it generates no more than 100 kilograms of hazardous waste in that month.
18. On August 16, 2011, through August 20, 2011, EPA Criminal Investigation Division (CID) served a criminal search warrant at the Facility. The search warrant included sampling activities of various drums and totes throughout the site and seizure of records.
19. Pursuant to 30 T.A.C. § 335.504(3), (40 C.F.R. § 261.21(a)), a solid waste exhibits the characteristic of ignitability if a representative sample of the waste is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume and has flash point less than 140 degrees Fahrenheit, as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D 93-79 or D 93-80, or a Setaflash Closed Cup Tester, using the test method specified in ASTM Standard D 3278-78.
20. Pursuant to 30 T.A.C. § 335.504(3), (40 C.F.R. § 261.22(a)), a solid waste exhibits the characteristic of corrosivity if a representative sample of the waste is aqueous and has a pH less than or equal to 2 or greater than or equal to 12.5, as determined by a pH meter using Method 9040C in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in § 260.11 of this chapter.

21. During the EPA CID search warrant, the sampling activities identified 6 (275 gallon) totes and 7 (55 gallon) drums containing ignitable hazardous waste. The sampling activities also identified 1 (275 gallon) tote and 7 (55 gallon) drums containing corrosive hazardous waste.
22. The materials identified above are each a "hazardous waste," as that term is defined at 30 T.A.C. § 335.1 (40 C.F.R. § 261.3).
23. Based on the amount of hazardous waste identified above, the Respondent's Facility accumulated hazardous waste in quantities exceeding 6000 kg and/or accumulated hazardous waste for more than 180 days (or for more than 270 days if it must transport its waste, or offer its waste for transportation, over a distance of 200 miles or more).
24. Pursuant to 30 T.A.C. § 335.78(g) (40 CFR § 261.5(g)), in order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of 100 kilograms or less of hazardous waste during a calendar month to be excluded from full regulation under this section, the generator must comply with requirements that include:
 - a. Section 262.11 of this chapter
 - b. The conditionally exempt small quantity generator may accumulate hazardous waste on-site. If he accumulates at any time 1,000 kilograms or greater of his hazardous wastes, all of those accumulated wastes are subject to regulation under the special provisions of part 262 applicable to generators of greater than 100 kg and less than 1000 kg of hazardous waste in a calendar month as well as the requirements of parts 263 through 268, and parts 270 and 124 of this chapter, and the applicable notification requirements of section 3010 of RCRA. The time period of § 262.34(d) for accumulation of wastes on-site begins for a conditionally exempt small quantity generator when the accumulated wastes equal or exceed 1000 kilograms.

- c. A conditionally exempt small quantity generator may either treat or dispose of his hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage or disposal facility, either of which, if located in the U.S., is:
- i. Permitted under part 270 of this chapter;
 - ii. In interim status under parts 270 and 265 of this chapter;
 - iii. Authorized to manage hazardous waste by a State with a hazardous waste management program approved under part 271 of this chapter;
 - iv. Permitted, licensed, or registered by a State to manage municipal solid waste and, if managed in a municipal solid waste landfill, is subject to Part 258 of this chapter;
 - v. Permitted, licensed, or registered by a State to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit after January 1, 1998, is subject to the requirements in §§ 257.5 through 257.30 of this chapter; or
 - vi. A facility which:
 1. Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or
 2. Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or
 - vii. For universal waste managed under part 273 of this chapter, a universal waste handler or destination facility subject to the requirements of part 273 of this chapter.

25. Respondent's Facility is an operator of a storage facility and is subject to the special provisions of part 262 applicable to generators of greater than 100 kg and less than 1000 kg of hazardous waste in a calendar month as well as the requirements of parts 263 through 268, and parts 270 and 124 of the Code of Federal Regulations, and the applicable notification requirements of RCRA.
26. Pursuant to RCRA 3007(a), 42 U.S.C. § 6927(a), on September 2 and September 6, 2011, EPA's representatives conducted a Compliance Evaluation Inspection (Inspection) at Respondent's Facility.
27. At the time of the Inspection, the Facility was conducting a major clean-up operation to process thousands of containers (totes/drums) holding various types of wastes and residuals such as paint related wastes and oil field chemicals which had been accumulating for several years.
28. During the Inspection, a review of Respondent's records was conducted to ascertain Respondent's compliance with the record keeping requirements under 30 T.A.C. Chapter 335 and 40 C.F.R. Part 262. The Facility claimed that most documentation was seized by EPA CID Investigators.
29. Respondent stated during the Inspection that all the wastes identified for sampling by EPA CID had not been shipped off-site.
30. During the Inspection, the Facility representatives informed EPA representatives that the storage areas were not scheduled for inspection on a weekly basis. The Facility representative stated that Facility personnel should have noticed something was wrong during the normal course of a workday.

31. During both the EPA CID search warrant and Inspection, EPA representatives observed and photographed containers which were not labeled with the words "Hazardous Waste" and were not marked with the date upon which accumulation of hazardous wastes began.
32. During the Inspection, EPA representatives did not observe any spill control equipment or decontamination equipment.
33. During the Inspection, the Facility representative could not verify information regarding the testing and maintenance of facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment to assure its proper operation in time of emergency.
34. During the Inspection, EPA representatives did not observe an internal alarm or emergency communication device immediately accessible to personnel involved with handling hazardous waste.
35. During the Inspection, EPA representatives observed insufficient aisle space at the Facility.
36. During the Inspection, the Facility had made arrangements with the local fire department, but had not made arrangements with other local authorities, emergency responders, and medical service providers to familiarize them with the characteristics of the facilities, any potential dangers inherent in hazardous waste management operations, or the types of injuries that could be incurred by employees in these types of operations.
37. During the Inspection, the Facility representative did not provide any information regarding a Contingency Plan and Emergency Procedures.
38. Pursuant to 30 T.A.C. § 335.62 (40 C.F.R. § 262.11(c)), any person who generates a solid waste as defined in 40 C.F.R. § 260.10 must determine if that waste is a hazardous waste either by applying the required test method or by applying its knowledge of the hazardous characteristics of the waste in light of the materials or the process used.

39. Pursuant to 30 T.A.C. § 335.1 (40 CFR §261.2), a solid waste is any discarded material that is not excluded under § 261.4(a) or that is not excluded by a variance granted under §§ 260.30 and 260.31 or that is not excluded by a non-waste determination under §§ 260.30 and 260.34.
40. During the Inspection, the Facility representative stated that the Facility accepts RCRA empty totes and drums containing residuals such as paint related wastes and oil field chemical wastes.
41. These containers are staged to drain residuals out, and if they cannot be drained, the Facility's standard practice was to cut the containers in half so that the residuals can be scraped out. If necessary, the containers may be sent to the North Bay to be power washed with hot water or cleaned with caustic.
42. The residuals that are removed from the containers by draining and scraping are consolidated into totes and drums until full and then moved to the Heels Storage Area.
43. The sampling activities conducted by EPA CID described above were representative of the consolidated wastes in the containers described herein.
44. When Respondent consolidated wastes, it generated a new waste, which classifies it as a "Generator" as that term is defined in 30 T.A.C. § 335.1 (40 C.F.R. § 260.10).
45. The Facility representatives stated that, prior to transporting off-site, the wastes in the consolidated containers in the Heels Storage Area are field tested by Rineco/TransEnvironmental Services to determine proper shipping according to Department of Transportation standards.

46. During the Inspection, the Facility representatives stated that the containers on-site were being field tested by TransEnvironmental Services for flammability and corrosivity. Flammability was being determined by using a PID meter, using a reading on the meter of 250 or greater as being flammable. Corrosivity was being determined by conducting a pH paper litmus test.
47. Facility representatives stated that the analytical testing performed on these wastes are not an approved RCRA method found in 40 C.F.R. Part 261 Subpart C.
48. The Facility also operates container and tank trailer wash out bays known as the North Bay and the South Bay that generate waste waters.
49. The North and South Bays use hot water, steam, and caustic to wash out containers with residuals that were unable to be removed by draining or scraping. These bays are also used to wash out their own emptied tank trailers that transported materials such as oil field chemicals known as "Guar" that are used as fracturing fluids.
50. The waste water generated from these wash out bays are sent through a waste water treatment system that generates four by-products: (1) flocculent cake, (2) filter paper, (3) coconut shell carbon, and (4) bottoms sludge.
51. The flocculent cake and filter paper is generated from their flocculation unit while the spent coconut shell carbon is generated from their coconut shell carbon filtration unit.
52. The flocculent cake, filter paper, and coconut shell carbon are removed from their respective units in which they are generated with no hazardous waste determinations made upon removal.
53. The flocculent cake, filter paper, and coconut shell carbon are aggregated into a dewatering box prior to Toxicity Characteristic Leaching Procedure (TCLP) testing by ERMI Environmental Laboratories.

54. The Facility also operates a Maintenance Shop that generates used oil from servicing their equipment and vehicles.
55. During the Inspection, EPA representatives observed and photographed a tote in the Maintenance Shop that contained used oil. The tote was not labeled or marked clearly with the words "Used Oil".

RCRA VIOLATIONS

COUNT I: OPERATING A HAZARDOUS WASTE STORAGE FACILITY WITHOUT A PERMIT, IN VIOLATION OF RCRA § 3005(a), 30 T.A.C. §§ 335.2 and 335.43, and 40 C.F.R. §§ 270.1 & 270.10

56. Paragraphs 1 through 57 are hereby incorporated by reference.
57. Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), 30 T.A.C. §§ 335.2 and 335.43 (40 C.F.R. §§ 270.1(c) & 270.10), prohibits the treatment, storage or disposal of hazardous waste without a permit or interim status.
58. 30 T.A.C. § 335.1 (40 C.F.R. § 260.10), defines storage as the holding of hazardous waste for a temporary period, at the end of which the waste is processed, disposed of, recycled, or stored elsewhere.
59. Pursuant to 30 T.A.C. § 335.78 (40 CFR § 261.5(a)), a generator is a conditionally exempt small quantity generator in a calendar month if he generates no more than 100 kilograms of hazardous waste in that month.
60. Pursuant to 30 T.A.C. § 335.78(b) (40 CFR § 261.5(b)), except for those wastes identified in paragraphs (e), (f), (g), and (h) of this section, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under parts 262 through 268, and parts 270 and 124 of this chapter, and the notification requirements of section 3010 of RCRA, provided the generator complies with the requirements of paragraphs (f), (g), and (j) of this section.

61. Pursuant to 30 T.A.C. § 335.78(g) (40 CFR 261.5(g)), in order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of 100 kilograms or less of hazardous waste during a calendar month to be excluded from full regulation under this section, the generator must comply with the requirements that include:

- a. Section 262.11 of this chapter;
- b. The conditionally exempt small quantity generator may accumulate hazardous waste on-site. If he accumulates at any time 1,000 kilograms or greater of his hazardous wastes, all of those accumulated wastes are subject to regulation under the special provisions of part 262 applicable to generators of greater than 100 kg and less than 1000 kg of hazardous waste in a calendar month as well as the requirements of parts 263 through 268, and parts 270 and 124 of this chapter, and the applicable notification requirements of section 3010 of RCRA.

62. Respondent was storing hazardous waste in containers.

63. Respondent does not have a RCRA permit or interim status.

64. Respondent failed to meet the requirements set forth in this Count I.

65. Therefore, Respondent has violated Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), 30 T.A.C. §§ 335.2 and 335.43 (40 C.F.R. §§ 270.1(c) & 270.10), which prohibits the treatment, storage or disposal of hazardous waste without a permit or interim by operating a hazardous waste storage facility without a permit or interim status.

COUNT II: FAILURE TO MAKE A HAZARDOUS WASTE DETERMINATION ON THE CONSOLIDATED RESIDUALS/HEELS CONTAINER WASTE, IN VIOLATION OF 30 T.A.C. § 335.62 (40 CFR § 262.11)

66. Paragraphs 1 through 67 are hereby incorporated by reference.

67. Pursuant to 30 T.A.C. § 335.62 (40 CFR § 262.11), a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste using the following method:

a. He should first determine if the waste is excluded from regulation under 40 C.F.R. § 261.4.

b. He must then determine if the waste is listed as a hazardous waste in subpart D of 40 C.F.R. Part 261.

c. For purposes of compliance with 40 C.F.R. Part 268, or if the waste is not listed in Subpart D of 40 C.F.R. Part 261, the generator must then determine whether the waste is identified in Subpart C of 40 C.F.R. Part 261 by either:

viii. Testing the waste according to the methods set forth in Subpart C of 40 C.F.R. Part 261, or according to an equivalent method approved by the Administrator under 40 C.F.R. § 260.21; or

ix. Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

68. Respondent generated a solid waste through the consolidation of received residuals/heel wastes.

69. Respondent did not make a hazardous waste determination by testing the waste according to the methods set forth in Subpart C of 40 C.F.R. Part 261, or applying knowledge of the hazard characteristic of the waste.

70. Therefore, Respondent violated 30 T.A.C. § 335.62 (40 CFR § 262.11), by not complying with the requirements to make a hazardous waste determination.

COUNT III: FAILURE TO MAKE A HAZARDOUS WASTE DETERMINATION ON THE FLOCCULANT WASTE AND SPENT COCONUT CARBON SHELL WASTE GENERATED IN THE WASTEWATER SYSTEM, IN VIOLATION OF 30 T.A.C. § 335.62 (40 CFR § 262.11)

71. Paragraphs 1 through 72 are hereby incorporated by reference.

72. Pursuant to 30 T.A.C. § 335.62 (40 CFR § 262.11), a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste using the following method:

- a. He should first determine if the waste is excluded from regulation under 40 C.F.R. § 261.4.
- b. He must then determine if the waste is listed as a hazardous waste in subpart D of 40 C.F.R. Part 261.
- c. For purposes of compliance with 40 C.F.R. Part 268, or if the waste is not listed in Subpart D of 40 C.F.R. Part 261, the generator must then determine whether the waste is identified in Subpart C of 40 C.F.R. Part 261 by either:
 - i. Testing the waste according to the methods set forth in Subpart C of 40 C.F.R. Part 261, or according to an equivalent method approved by the Administrator under 40 CFR § 260.21; or
 - ii. Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

73. Respondent generated a solid waste through the removal of the flocculent waste from its unit in the wastewater system.

74. Respondent generated a solid waste through the removal of the spent coconut shell carbon from its unit in the wastewater system.

75. Respondent did not make a hazardous waste determination of each solid waste stream at the point of generation.

76. Therefore, Respondent violated 30 T.A.C. § 335.62 (40 CFR § 262.11), by not complying with the requirements to make a hazardous waste determination.

COUNT IV: FAILURE TO LABEL OR MARK CLEARLY A CONTAINER OF USED OIL WITH THE WORDS "USED OIL," IN VIOLATION OF 30 T.A.C. § 324.6(40 C.F.R. PART 279 SUBPART C § 279.22(c))

77. Paragraphs 1 through 78 are hereby incorporated by reference.

78. Pursuant to 30 T.A.C. § 324.6 (40 C.F.R. § 279.22(c)), used oil generators are subject to meeting the used oil storage requirement of labeling or marking clearly containers used to store used oil with the words "Used Oil."

79. As defined in 30 T.A.C. § 324.2 (40 C.F.R. § 279.1), used oil means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

80. As defined in 30 T.A.C. § 324.2(40 C.F.R. § 279.1), a used oil generator means any person by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

81. Respondent did not label or clearly mark the words "Used Oil" on a container holding used oil in the Maintenance Shop.

82. Therefore, Respondent violated 30 T.A.C. § 324.6(40 C.F.R. § 279.22(c)), by failing to meet the used oil storage requirement of labeling or marking clearly containers used to store used oil with the words "Used Oil."

COMPLIANCE ORDER

Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ORDERED to take the following actions, and submit any and all documents, photos, or other appropriate evidence to EPA within the time period specified below, to adequately demonstrate compliance.

- A. Within thirty (30) days of the effective date of this Order, Respondent shall accurately assess its monthly generation of hazardous waste and either modify its notification of hazardous waste management activity or certify as to the accuracy of its current status as a Conditionally Exempt Small Quantity Generator, whichever is appropriate. Upon determination of its generator status, Respondent must comply with the appropriate requirements for hazardous waste generators.
- B. Within thirty (30) days of the effective date of this Order, Respondent shall take the necessary steps to ensure that the quantities of hazardous waste stored on site never exceed the regulatory limits imposed by RCRA.
- C. Within thirty (30) days of the effective date of this Order, Respondent shall take the necessary steps to ensure that hazardous wastes are not stored on-site longer than the regulatory limits imposed by RCRA.
- D. Within thirty (30) days of the effective date of this Order, Respondent shall take the necessary steps to ensure that containers storing hazardous waste are labeled with the words "Hazardous Waste," marked with the date upon which each period of accumulation begins, and that the containers remain closed at all times, except when adding and removing wastes.

- E. Within thirty (30) days of the effective date of this Order, Respondent shall take the necessary steps to ensure compliance with maintaining proper documentation of personnel training at the facility.
- F. Within thirty (30) days of the effective date of this Order, Respondent shall take the necessary steps to ensure that hazardous waste storage areas are inspected weekly.
- G. Within thirty (30) days of the effective date of this Order, Respondent shall take the necessary steps to ensure that the facility is equipped with spill control equipment and decontamination equipment.
- H. Within thirty (30) days of the effective date of this Order, Respondent shall take the necessary steps to ensure that communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.
- I. Within thirty (30) days of the effective date of this Order, Respondent shall take the necessary steps to ensure that whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee.
- J. Within thirty (30) days of the effective date of this Order, Respondent shall take the necessary steps to ensure that the owner or operator maintains aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.

- K. Within thirty (30) days of the effective date of this Order, Respondent shall attempt to make arrangements with local authorities, as appropriate for the type of waste handled at the facility and the potential need for the services of these organizations as required under 30 T.A.C. § 335.112(a)(2)(40 C.F.R. § 265.37).
- L. Within thirty (30) days of the effective date of this Order, Respondent shall take the necessary steps to develop a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health and the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous constituents to air, soil, or surface water. The contingency plan must meet all requirements under 30 T.A.C. § 335.112(a)(3) (40 C.F.R. Part 265 Subpart D).
- M. Within thirty (30) days of the effective date of this Order, Respondent shall take the necessary steps to ensure that hazardous waste determinations are conducted on all hazardous waste streams generated at the Facility.
- N. Within thirty (30) days of the effective date of this Order, Respondent shall take the necessary steps to ensure that containers used to store used oil at the facility are labeled or marked clearly with the words "Used Oil."
- O. In all instances in which this Order requires written submissions to EPA, each submission must be accompanied by the following certification:
- "I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

P. Copies of all documents required by this Complaint shall be sent to the following:

U.S. Environmental Protection Agency
Compliance Assurance and Enforcement Division
Hazardous Waste Enforcement Branch
Compliance Enforcement Section (6EN-HE)
1445 Ross Avenue
Dallas, Texas 75202-2733
Attn: Gabriel Salinas

PENALTY/RESERVATION OF RIGHTS

If Respondent fails to take the required actions within the time specified in this Complaint, Respondent may be liable for a penalty of up to Thirty-Seven Thousand, Five Hundred Dollars (\$37,500) for each day of continued noncompliance pursuant to Section 3008(c) of RCRA, 42 U.S.C. § 6928(c), and may be subject to further enforcement action as may be necessary to achieve compliance with RCRA. EPA further reserves its right to assess penalties against Respondent related to the issues specifically addressed in this Complaint.

Notwithstanding any other provision of this Complaint, an enforcement action may be brought against the Respondent pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, if EPA finds that the handling, storage, treatment, transportation or disposal of solid waste or hazardous waste at the Facility presents an imminent and substantial endangerment to human health or the environment.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

If the Respondent wishes to contest any material fact set forth in the Complaint, contend that the compliance order is inappropriate, or feels entitled to a judgment as a matter of law, it shall file an original and one copy of a written answer to this Complaint with the Regional

Hearing Clerk within thirty (30) days after service of said Complaint, and serve a copy on all other parties. A copy of the Answer shall also be sent to:

Tom Rucki
Enforcement Counsel (6RC-ER)
U.S. EPA - Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

The Answer should clearly and directly admit, deny, or explain each factual allegation contained in this Complaint with regard to which the Respondent has knowledge. Where the Respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. The Answer should state: (1) the circumstances or arguments which are alleged to constitute the grounds of defense; (2) the facts which the Respondent disputes; (3) the basis for opposing any proposed relief; and (4) whether a hearing is requested. Hearings held on this will be conducted in accordance with the provisions of the Administrative Procedures Act, 5 U.S.C. § 551 *et seq.*, and the Consolidated Rules of Practice, codified at 40 C.F.R. Part 22.

If an Answer to this Complaint is not filed with the Regional Hearing Clerk within thirty (30) days of receipt, such failure shall constitute an admission of all facts alleged in the Complaint and a waiver of the Respondent's right to a hearing. Pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b) and 40 C.F.R. § 22.37(b), the Compliance Order becomes final within thirty (30) days of receipt unless the Respondent requests a hearing.

The Regional Hearing Clerk's address is:

Ms. Lorena Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA - Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

SETTLEMENT CONFERENCE

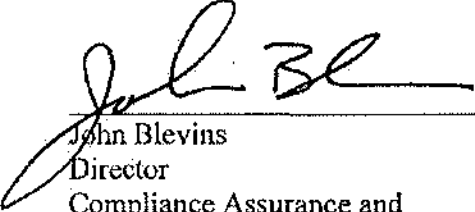
Whether or not the Respondent requests a hearing, it may confer with the Complainant concerning settlement. EPA encourages settlement consistent with the provisions and objectives of RCRA and applicable regulations. A request for a settlement conference does not extend the thirty (30) day period during which the written Answer and a request for hearing must be submitted. The settlement conference procedure may be pursued as an alternative to and simultaneous with the formal hearing procedures. The Respondent may appear at the settlement conference and/or be represented by counsel.

Any settlement reached by the parties shall be finalized upon the issuance of a written Consent Agreement and Final Order by the Regional Judicial Officer, EPA-Region 6, in accordance with 40 C.F.R. § 22.18. The issuance of a Consent Agreement and Final Order shall constitute a waiver of the Respondent's right to request a hearing on any matter stipulated to therein.

To explore the possibility of settlement in this matter, please address correspondence to Tom Rucki and Gabriel Salinas, at the addresses listed above or by e-mail at rucki.thomas@epa.gov and salinas.gabriel@epa.gov.

2.8.12

Date



John Blevins
Director
Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of March, 2012, the original and one copy of the foregoing Complaint was hand-delivered to the Regional Hearing Clerk, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the Complaint was placed in the United States Mail, certified mail, return receipt requested, addressed to the following:

Walter D. James III
The Renaissance
1117 Glade Road, Suite 140
Colleyville, TX 76034

Blain Vinson
Chief Operating Officer
Al-Kel Alliance, Inc.
2012 N. Goode Road
Wilmer, TX 75172