

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 Broadway
New York, NY 10007-1866

IN THE MATTER OF

Enterprise Terminals and Storage, LLC
1100 Louisiana Street
Houston, Texas 77002

Enterprise Products Operating, LLC
1100 Louisiana Street
Houston, Texas 77002

Respondents.

Proceedings Under Section 1423(c)
of the Safe Drinking Water Act,
42 U.S.C. §300h-2(c)

DOCKET NO. SDWA-02-2011-8902

COMPLAINT
NOTICE OF VIOLATION
PROPOSED ADMINISTRATIVE ORDER
WITH CIVIL PENALTY
AND
OPPORTUNITY TO REQUEST A HEARING

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
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REGIONAL HEARING
CLERK

COMPLAINT AND NOTICE OF VIOLATION

I. STATUTORY & REGULATORY AUTHORITIES

- 1) This Complaint, Notice of Violation, Proposed Administrative Order with Civil Penalty and Opportunity to Request a Hearing, is hereinafter referred to as "Complaint" and is issued under the authority vested in the Administrator of the Environmental Protection Agency ("EPA") by Section 1423(c)(2) of the Safe Drinking Water Act ("Act"), 42 U.S.C. §300h-2(c)(2). The Administrator has delegated the authority to take these actions to the Regional Administrator for Region 2, who in turn delegated them to the Director, Division of Enforcement and Compliance Assistance of EPA, Region 2 ("Complainant").
- 2) Pursuant to Section 1423(c)(2) of the Act, 42 U.S.C. §300h-2(c)(2), and in accordance with the Consolidated Rules of Practice ("CROP") 40 C.F.R. Part 22, Complainant hereby requests that the Regional Administrator assess a civil penalty against Respondents for violations of the Act and the regulations promulgated thereunder and require Respondents to take certain actions to achieve compliance with the Act and the regulations promulgated thereunder.

- 3) Section 1422 of the Act, 42 U.S.C. §300h-1, requires EPA to administer the Underground Injection Control ("UIC") Program in states that do not have approved state programs. New York is a "state" within the meaning of Section 1401(13) of the Act, 42 U.S.C. §300f (13) and 40 C.F.R. §144.3. New York has not acquired primacy over the UIC program. Therefore, the UIC program for the State of New York is administered by the EPA and, pursuant to 40 C.F.R. §147.1651, the effective date of the program is June 25, 1984.
- 4) Section 1401(12) of the Act, 42 U.S.C. §300f (12) and 40 C.F.R. §144.3 defines "person" among other things, as an individual, corporation, company, association, partnership or municipality.
- 5) Pursuant to 40 C.F.R. §144.1(g)(2)(iv), injection wells used for injection of hydrocarbons which are of pipeline quality and are gases at standard temperature and pressure for the purpose of storage are exempt from regulation under the UIC program.
- 6) Pursuant to 40 C.F.R. §144.6(b), Class II injection wells include those wells which inject fluids:
 - a) Which are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production,
 - b) For enhanced recovery of oil or natural gas; and
 - c) For storage of hydrocarbons which are liquid at standard temperature and pressure.
- 7) Pursuant to 40 C.F.R. §144.3, an "existing injection well" means an "injection well" other than a "new injection well."
- 8) Pursuant to 40 C.F.R. §144.3, a "new injection well" means an "injection well" that began injection after a UIC program for the State applicable to the well is approved or prescribed.
- 9) 40 C.F.R. §144.11(a) prohibits any underground injection, except as authorized by rule or permit under the UIC program.
- 10) Pursuant to 40 C.F.R. §§144.21(a) and 144.22(a) existing Class II injection wells are authorized by rule if the owner or operator injects into the existing well within one year after the date at which a UIC program authorized under the SDWA becomes effective for the first time or inventories the well pursuant to the requirements of 40 C.F.R. §144.26.
- 11) Pursuant to 40 C.F.R. §144.21(c), an owner or operator of a Class II well (except enhanced recovery and hydrocarbon storage wells) authorized by rule is prohibited from injecting into the well five years after the effective date of the UIC program unless a timely and complete permit application is pending the Director's decision.

- 12) Pursuant to 40 C.F.R. §147.1651(b) the effective date of the UIC program in New York State, except for the lands of the Seneca Indian Tribe, was June 25, 1984.
- 13) Section 1445 of the Act, 42 U.S.C. §300j-4, authorizes EPA to conduct inspections and request information to determine whether the owner or operator of an injection well has acted or is acting in compliance with the UIC program.

II. JURISDICTIONAL FINDINGS

- 1) Enterprise Terminals and Storage, LLC and Enterprise Products Operating, LLC (“Respondents”) are persons within the meaning of Section 1401(12) of the Act, 42 U.S.C. §300f(12) and 40 C.F.R. §144.3.
- 2) Enterprise Terminals and Storage, LLC owns and Enterprise Products Operating, LLC operates a facility known as the Harford Mills Terminal at 291 Route 200, Harford, NY 13784 (the “facility”). Respondents conduct Liquefied Petroleum Gas (“LPG”) storage activities at the facility.
- 3) Respondents own and operate two injection wells at the facility, the Overbaugh Philips 1 and the Harford Propane Storage 3 (“Subject Wells”). Respondents utilize the Subject Wells to inject LPG for storage and to produce LPG for market. Respondents also produce brine from the Subject Wells when injecting LPG and reinject the brine into the Subject Wells when producing the LPG.
- 4) Pursuant to 40 C.F.R. §144.1(g)(2)(iv) injection wells utilized to inject LPG for storage purposes are exempt from regulation under the UIC program. Use of injection wells to also inject brine or other fluids is not exempt from regulation under the UIC program.
- 5) Based on information provided to EPA, the Subject Wells are utilized to inject brine that has been produced from the Subject Wells in association with natural gas storage operations. Therefore, the Subject Wells are Class II injection wells as defined at 40 C.F.R. §144.6(b).
- 6) Based on information provided to EPA, the Subject Wells have been in operation since before the date the UIC program became effective for the first time in the State of New York and are believed to have injected brine during the first year of the program. Therefore, the Subject Wells are existing injection wells pursuant to 40 C.F.R §144.3 and are, pursuant to 40 C.F.R. §144.21(a), authorized by rule.
- 7) Based on the above, Respondents are subject to the requirements of Part C of the Act, 42 U.S.C. §300h et seq. and implementing regulations found at 40 C.F.R. Parts 124, 144, 146 and 147, Subpart HH.

III. FINDINGS OF VIOLATION

- 1) Complainant re-alleges Section II Jurisdictional Findings Paragraphs 1-7.
- 2) Pursuant to authority under Section 1445 of the Act, 42 U.S.C. §300j-4, and 40 C.F.R. §144.27, EPA sent an information request letter dated November 2, 2010 to TE Products Pipeline Co., LLC, (TEPPCO) believed to be the facility owner and/or operator. The letter requested information concerning the ownership of the facility as well as facility operations. Respondents acknowledged receipt of the letter on November 8, 2010.
- 3) By letter dated December 3, 2010, Respondents submitted a response to EPA's letter of November 2, 2010. The response indicated the following:
 - a) TEPPCO is now known as Enterprise TE Products Pipeline Company LLC, a subsidiary of Enterprise Products Partners L.P.
 - b) The facility is owned by Enterprise Terminals and Storage, LLC.
 - c) The facility is operated by Enterprise Products Operating, LLC.
 - d) Respondents utilize two storage caverns constructed in the Syracuse Salt Formation for the storage of LPG. Storage activities including brine injection in the Overbaugh Philips 1 injection well and cavern began on or about June 18, 1952. Storage activities including brine injection in the Harford Propane Storage 3 injection well and cavern began on or about March 27, 1969.
 - e) Respondents indicated that there is no record that injection well inventory information or a permit application was submitted to EPA.
- 4) Pursuant to 40 C.F.R. §144.21(c), an owner or operator of an existing Class II well (except enhanced recovery and hydrocarbon storage wells) authorized by rule is prohibited from injecting into the well five years after the effective date of the UIC program unless a timely and complete permit application is pending the Director's decision.
- 5) To date, Respondents have not ceased injection of brine and have not submitted a permit application to EPA.
- 6) Based on the Findings above, Respondents are in violation of 40 C.F.R. §144.11 by injection without authorization to inject.

IV. PROPOSED ADMINISTRATIVE ORDER

Based on the foregoing Findings of Violation, and pursuant to the authority of Section 1423(c) of the Act, 42 U.S.C. §300h-2(c), and the Debt Collection Improvement Act of 1996, EPA

Region 2, hereby proposes to issue a Final Administrative Order (“Final Order”) against Respondents assessing the following penalty and ordering the following compliance measures.

- 1) **Penalty:** EPA proposes assessing a penalty of **\$31,000**. EPA determined the proposed penalty in accordance with the terms of the Act, which takes into account statutory factors, including the seriousness of the violation(s); the economic benefit (if any) resulting from the violation(s); the history of such violation(s); the good-faith efforts to comply with the applicable requirements; the economic impact of the penalty on the violator; and such other matters as justice may require.
- 2) **Compliance Measures:**
 - a) **Request for Permit:** Should Respondents desire to continue to utilize the Subject Wells for injection of brine, Respondents shall, within 120 days of the effective date of this Order, submit a completed EPA permit application form 7520-6, including all required attachments.
 - b) **Cessation of Brine Injection:** Should Respondents elect to cease the injection of brine, continue to inject LPG and not to request a permit, Respondents shall submit a written notification to EPA within 60 days of the effective date of this Order. Such notification shall include at a minimum:
 - i) Name(s) of the Subject Well(s) that have, or will, cease brine injection.
 - ii) The date(s), no later than 90 days after the effective date of this Order, the Subject Well(s) ceased, or will cease, brine injection.
 - c) **Plugging and Abandonment:** Should Respondents elect to permanently cease injection of brine and LPG into one or both of the Subject Wells, Respondents shall submit a written notification to EPA within 60 days of the effective date of this Order. Such notification shall include at a minimum:
 - i) Name(s) of the Subject Well(s) that have, or will, cease all injection activities.
 - ii) Proposed plugging and abandonment plan that meets the requirements of 40 C.F.R. §146.10. All well plugging shall be conducted in accordance with an EPA-approved plugging and abandonment plan.

- iii) The date(s), no later than 120 days after the effective date of this Order, the Subject Well(s) ceased, or will cease, brine and LPG injection.
 - iv) The date(s), no later than 1 year after the effective date of this Order, that the Subject Well(s) will be permanently plugged and abandoned
- 3) The Final Order does not constitute a waiver, suspension or modification of the requirements of 40 C.F.R. §147, Subpart HH, which remain in full force and effect. Issuance of the Final Order is not an election by EPA to forego any civil or criminal action otherwise authorized under the Act.
- 4) Violations of the terms of the Final Order after its effective date or date of final judgment as described in Section 1423(c)(6) of the Act, 42 U.S.C. §300h-2(c)(6), may subject Respondents to further enforcement action, including a civil action for enforcement of the Final Order under Section 1423(b) of the Act, 42 U.S.C. §300h-2(b), and civil and criminal penalties for violations of the compliance terms of the Final Order under Section 1423(b)(1) and (2) of the Act, 42 U.S.C. §300h-2(b)(1) and (2). Failure to act in accordance with this Order truthfully and accurately within the time provided may subject Respondents to sanctions authorized by federal law. In addition, making a knowing submission of materially false information to the U.S. Government may be a criminal offense.

V. OPPORTUNITY FOR A HEARING

- 1) Respondents may, within thirty (30) days of receipt of this Complaint and as part of any Answer filed in this matter, request a Hearing on the proposed civil penalty assessment and the actions proposed to achieve compliance with the Act, as detailed in Section IV above. At the Hearing, Respondents may contest the factual allegations set forth in the Findings sections above; the appropriateness of any penalty amount, and; appropriateness of any compliance measures contained in Section IV, above. The procedures for the Hearing, if one is requested, are set out in the Consolidated Rules of Practice, including Subpart I. A copy of the Consolidated Rules of Practice is attached.
- 2) Should Respondents request a hearing on this proposed penalty assessment and/or compliance measures, members of the public, to whom EPA is obligated to give notice of this proposed action, will have a right under Section 1423(c)(3) of the Act, 42 U.S.C. §300h-2(c)(3), to be heard and to present evidence on the appropriateness of the penalty assessment and compliance measures. Should Respondents not request a hearing, EPA will issue a Final Order and only members of the public who submit timely comment on this Complaint will have an additional thirty (30) days to petition EPA to set aside the Final Order and to hold a hearing thereon. EPA will grant the petition and will hold a hearing only if the petitioner's evidence is material and was not considered by EPA in the issuance of the Final Order.

VI. FILING AN ANSWER

- 1) If Respondents wish to avoid being found in default, Respondents must file a written Answer to this Complaint with the Regional Hearing Clerk no later than thirty (30) days from the date of receipt of this Complaint. Under authority of 40 C.F.R. §22.17 EPA may file a motion seeking a default order thirty (30) days after Respondents' receipt of the Complaint, unless Respondents file an Answer within that time. If a default order is entered, the entire proposed penalty may be assessed and the proposed compliance measures may be required, without further proceedings.
- 2) The Answer must clearly and directly admit, deny or explain each of the factual allegations contained in the Complaint with respect to which Respondents have knowledge, or, clearly state that Respondents have no knowledge as to particular factual allegations in the Complaint. The Answer also shall state:
 - i) circumstances or arguments which are alleged to constitute grounds of any defense;
 - ii) facts which the Respondents dispute;
 - iii) basis for opposing the proposed relief;
 - iv) whether a Hearing has been requested.
- 3) Failure of Respondents to admit, deny or explain any material factual allegations in the Complaint shall constitute admissions of the allegation.

VII. FILING OF DOCUMENTS

- 1) The Answer and any Hearing Request and all subsequent documents filed in this action should be sent to:

Regional Hearing Clerk
U.S. EPA, Region 2
290 Broadway – 16th Floor
New York, New York 10007-1866

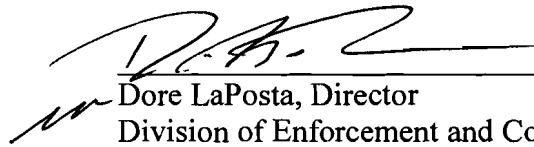
- 2) A copy of the Answer, any Hearing Request, and all subsequent documents filed in this action shall be sent to:

Lauren Fischer, Esq.
Assistant Regional Counsel
Water & General Law Branch
Office of Regional Counsel
U.S. EPA, Region 2
290 Broadway – 16th Floor
New York, New York 10007
(212) 637-3231

VIII GENERAL PROVISIONS, requirements of the Act, regulations promulgated thereunder or any applicable UIC permit.

- 3) Complainant specifically reserves all rights to pursue criminal enforcement as well as the right to initiate an action for imminent and substantial endangerment, including the right to seek injunctive relief and/or the imposition of statutory penalties for those violations not addressed by this Complaint. This reservation of right does not waive any other rights Complainant may have but has not stated herein.

COMPLAINT ISSUED THIS 31st DAY OF March



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance



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

MAR 31 2011

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Article Numbers: 7005 3110 0000 5949 8576 7005 3110 0000 5949 8583

Enterprise Terminals and Storage, LLC
P.O. Box 4324
Houston, Texas 77210-4324

Enterprise Products Operating, LLC
P.O. Box 4324
Houston, Texas 77210-4324

RE: In the Matter of: Enterprise Terminals and Storage, LLC and Enterprise Products Operating, LLC
Docket Number: SDWA-02-2011-8902

Dear Sir/Madam:

Enclosed is a Complaint issued to Enterprise Terminals and Storage, LLC and Enterprise Products Operating, LLC ("Respondents") by the U.S. Environmental Protection Agency ("EPA"). The EPA has determined that Respondents are in violation of Part C of the Safe Drinking Water Act ("the Act") and the regulations promulgated thereunder, relating to underground injection. Therefore, pursuant to §1423(c) of the Act, 42 U.S.C. §300h-2(c), EPA seeks (1) to assess a penalty in the amount of **\$31,000** against Respondents for the violation, and, (2) to require Respondents to take certain actions to achieve compliance with the Act.

Respondents have the right to a hearing to contest the factual allegations in the Complaint. If the allegations are admitted, or they are found to be true after an opportunity for a hearing on them, Respondents have the right to contest the penalty and the compliance measures proposed in the Complaint. I have enclosed a copy of the Consolidated Rules of Practice ("CROP"), 40 C.F.R. Part 22, which EPA follows in cases of this kind. Please take particular note of 40 C.F.R. §22.15 with regard to filing an Answer in this matter. Also note 40 C.F.R. Part 22 Subpart I. **If Respondents wish to contest the allegations in the Complaint, the proposed penalty or the proposed compliance measures detailed in the Complaint, an Answer must be filed within thirty (30) days of your receipt of the enclosed Complaint. The Answer must be mailed to the EPA Regional Hearing Clerk at the following address:**

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
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REGIONAL HEARING
CLERK

You must also send a copy of your Answer to:

Lauren Fischer, Esq.
Assistant Regional Counsel
Water & General Law Branch
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3231

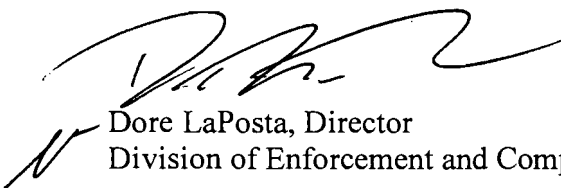
If Respondents do not file an Answer within thirty (30) days of receipt of this Complaint, you may be judged to have defaulted. In the event of default, each allegation in the Complaint will be deemed to be admitted. Respondents will have waived the right to appear in this action and the entire proposed penalty and all proposed compliance measures may be ordered without further proceedings.

Whether or not a hearing is requested, Respondents may confer informally with the EPA concerning the alleged violations, the amount of the proposed penalty and/or the compliance measures. The EPA encourages all parties against whom it files a Complaint to pursue settlement discussions. The EPA also encourages the use of Supplemental Environmental Projects, where appropriate, as part of the settlement. Enclosed is a copy of the EPA Supplemental Environmental Projects Policy (May 1, 1998) for your consideration. Respondents may represent themselves or be represented by an attorney at any stage of the proceedings, including any informal discussions, whether in person or by telephone. Please note that a request for an informal conference does not substitute for a written Answer or effect what may be asserted in an Answer, nor does it extend the thirty (30) days by which to file an Answer or a Hearing Request. Any hearing held in this matter will be conducted in accordance with the CROP.

In addition, Securities and Exchange Commission ("SEC") Regulation S-K, Item 103 - Legal Proceedings (17 C.F.R. § 229.103) requires registrants with the SEC (e.g., publicly-traded companies) to periodically disclose a broad array of environmental legal proceedings in statements filed with the Commission. In an effort to increase awareness of this duty, and encourage greater disclosure of environmental legal proceedings, we are enclosing a "Notice of SEC Registrants' Duty to Disclose Environmental Legal Proceedings."

EPA urges your prompt attention to this matter. If you have any questions or wish to discuss a settlement of this matter with EPA by an informal conference, please immediately contact Lauren Fischer, Esq., Assistant Regional Counsel, at (212) 637-3231.

Sincerely,



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

1. Complaint SDWA-02-2011-8902
 2. CROP
- cc: Karen Maples, Regional Hearing Clerk
(w/Complaint only)

Mark Klotz (w/Complaint only)
Director
Division of Water
New York State Dept. of Environmental Conservation
625 Broadway
Albany, NY 12233-3500

bcc: D. McKenna (w/Complaint only), DECA-WCB
L. Fischer (w/enc.), ORC-WGL
F. Brock (w/enc.), DECA-WCB

IN THE MATTER OF:

Enterprise Terminals and Storage, LLC
1100 Louisiana Street
Houston, Texas 77002

Enterprise Products Operating, LLC
1100 Louisiana Street
Houston, Texas 77002

Proceedings under Section 1423(c)
of the Safe Drinking Water Act,
42 U.S.C. §300h-2(c)

Docket No. SDWA-02-2011-8902

CERTIFICATE OF SERVICE

I certify that the foregoing "Complaint, Notice of Violation, Proposed Administrative Order and Opportunity to Request a Hearing" was sent to the following persons, in the manner specified, on the date below:

Original hand delivered:

Karen Maples
Regional Hearing Clerk
U.S. EPA, Region 2
290 Broadway
New York, New York 10007-1866

Copy by certified mail
return receipt requested:

Enterprise Terminals and Storage, LLC
P.O. Box 4324
Houston, Texas 77210-4324

Enterprise Products Operating, LLC
P.O. Box 4324
Houston, Texas 77210-4324

Date: 4/5/2011

Signed: May Coogrove
Secretary