

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

U.S. Environmental
Protection Agency-Reg 2

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REGIONAL
CLERK
HEARING

In the Matter of County of Middlesex,
New Jersey,

Respondent.

Proceeding Under Section 9006 of the
Solid Waste Disposal Act, as amended.

COMPLAINT, COMPLIANCE ORDER
AND NOTICE OF OPPORTUNITY
FOR HEARING

Docket No. RCRA-02-2014-7505

COMPLAINT

1. Complainant hereby alleges as and for her complaint against Respondent:
2. This administrative proceeding is being instituted pursuant to Section 9006 of the Solid Waste Disposal Act, as amended, 42 U.S.C. Section 6901 et seq. (the "Act").
3. This proceeding seeks to assess a civil penalty against Respondent for violations of the requirements or standards promulgated by the Administrator of the United States Environmental Protection Agency ("EPA") pursuant to Section 9003 of the Act, 42 U.S.C. § 6991b, and to require compliance with said requirements or standards.
4. Complainant in this proceeding, Dore LaPosta, the Director of the Division of Enforcement and Compliance Assistance of the US EPA, Region 2, has been duly delegated the authority to institute this action.
5. Respondent is the County of Middlesex, New Jersey (hereinafter "Middlesex"). The mailing address of Middlesex is care of Ronald G. Rios, Director, Board of Chosen Freeholders, County Administration Building - First Floor, 75 Bayard Street, New Brunswick, NJ 08901.
6. Respondent Middlesex is, and has been, a county organized pursuant to the laws of the State of New Jersey.
7. Respondent is a "person" within the meaning of Section 9001(6) of the Act, 42 U.S.C. § 6991(6), and of 40 C.F.R. § 280.12.

8. The Respondent is, or has been for the times relevant to the matters alleged below, in the business of owning and/or operating public works and facilities in the State of New Jersey.
9. The Respondent is, or has been for the times relevant to the matters alleged below, an “owner” and/or “operator” of underground storage tanks” (“USTs”) or “UST system”, as those terms are defined in Section 9001 of the Act, 42 U.S.C. Section 6991, and 40 C.F.R. Section 280.12, that are located at one or more of the following public works facilities identified within this Complaint:
 - a) Middlesex County Highway Complex, 97 Apple Orchard Ln., North Brunswick, NJ
 - b) Johnson County Park, Johnson Dr., Piscataway, NJ
 - c) Middlesex County Area 1 Garage, 277 Bertrand Ave., Perth Amboy, NJ
 - d) Middlesex County Area 3 Garage, 750 Jernee Mill Rd., Sayerville, NJ
10. Pursuant to 40 C.F.R. § 280.12, EPA is the “implementing agency” responsible for enforcing the requirements of the Act and the regulations promulgated pursuant thereto which are the subject of this Complaint.
11. Pursuant to Sections 9003 of the Act, 42 U.S.C. § 6991b, EPA promulgated rules setting forth requirements for owners and operators of UST systems, codified at 40 C.F.R. Part 280. These rules include but are not limited to release detection and record-keeping requirements for tanks and piping.
12. Forty C.F.R. § 280.12 defines an UST as any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground.
13. Forty C.F.R. § 280.12 defines an “existing tank system” as a tank system used to contain an accumulation of regulated substances or for which installation has commenced on or before December 22, 1988.
14. Forty C.F.R. § 280.12 defines a “new tank system” as a tank system used to contain an accumulation of regulated substances and for which installation has commenced after December 22, 1988.
15. Pursuant to 40 C.F.R. § 280.41(a), owners and operators of underground tanks that routinely contain regulated substances must monitor for releases every thirty days in accordance with this section.
16. The underground piping for which violations are alleged in Count 1, Count 2, Count 5 and Count 6 of this Complaint is classified as “pressurized” piping.

17. Pursuant to 40 C.F.R. § 280.41(b)(1), underground piping that conveys regulated substances under pressure must: i) be equipped with an automatic line leak detector conducted in accordance with § 280.44(a) (which requires an annual test of the operation of the leak detector); and ii) have an annual line tightness test conducted in accordance with § 280.44(b) or have monthly monitoring conducted in accordance with § 280.44(c).
18. The underground piping for which violations are alleged in the Count 2 (GRE5 and GRE6) of this Complaint is classified as “suction” piping.
19. Pursuant to 40 C.F.R. § 280.41(b)(2), underground piping that conveys regulated substance under suction must either have a line tightness test conducted at least every 3 years and in accordance with § 280.44(b), or use a monthly monitoring method conducted in accordance with § 280.44(c). No release detection is required for suction piping that is designed and constructed to meet the following standards:
 - (i) The below-grade piping operates at less than atmospheric pressure;
 - (ii) The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;
 - (iii) Only one check valve is included in each suction line;
 - (iv) The check valve is located directly below and as close as practical to the suction pump; and
 - (v) A method is provided that allows compliance with paragraphs (b)(2) (ii)-(iv) of this section to be readily determined.
20. Pursuant to 40 C.F.R. § 280.34, owners and operators of UST systems must cooperate fully with inspections by the implementing agency, as well as requests for document submission, testing, and monitoring by the owner or operator pursuant to Section 9005 of Subtitle I of the Act.
21. Pursuant to 40 C.F.R. § 280.34(b)(4) owners and operators of UST systems must maintain records of recent compliance with release detection requirements (40 C.F.R. § 280.45).
22. Pursuant to 40 C.F.R. § 280.34(c) owners and operators of UST systems must keep the records required either: (1) at the UST site and immediately available for inspection by the implementing agency; or (2) at a readily available alternative site and be provided for inspection to the implementing agency.
23. Pursuant to 40 C.F.R. § 280.45(a), owners and operators of UST systems must maintain, for 5 years from the date of installation, or another reasonable period of time determined by the implementing agency, records of all written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer.

24. Pursuant to 40 C.F.R. § 280.45(b), owners and operators of UST systems must maintain, for at least one year, the results of any sampling, testing or release detection monitoring.
25. EPA sent RCRA § 9005 Information Request Letters (hereinafter "IRLs") to David Campion, Office of Public Property, County of Middlesex at 97 Apple Orchard Ln. North Brunswick, NJ 08902, in order to determine Middlesex's compliance with the requirements of the Act and 40 C.F.R. Part 280 pertaining to underground storage tanks at one or more of the following facilities: Middlesex County Highway Complex, Johnson County Park, Donaldson County Park, Middlesex County Area 1 Garage, and Middlesex County Area 3 Garage. These IRLs were sent on the following dates:
 - a) January 13, 2014, seeking information on USTs at "Facilities Owned/Operated by Middlesex County or affiliates" and listing all five facilities;
 - b) On April 16, 2014, seeking follow-up information on USTs at "Facilities Owned/Operated by Middlesex County or affiliates" and listing all the same facilities except Donaldson Park (which EPA had determined to be in compliance);
26. Respondent Middlesex's responses to the aforementioned Section 9005 IRLs referred to in paragraph number 25(a), above, were provided by mail on or about March 28, 2014. Respondent Middlesex's responses to the aforementioned Section 9005 IRLs in paragraph number 25(b), above, were provided by e-mail on or about June 9, 2014 with a "certification of answers" by e-mail on July 15, 2014.
27. In Respondent Middlesex's March 28, 2014 response to EPA's January 13, 2014 IRL and in its June 9, 2014 response to EPA's April 16, 2014 IRL, it states Middlesex has owned the UST systems at all four facilities subject to this complaint.
28. Middlesex's March 28, 2014 responses were prepared and certified to be truthful and accurate by Thomas Vogel, Road Repair Superintendent, in the course of carrying out his duties and responsibilities with regard to the ownership and/or operation of the ten regulated UST systems at the four facilities subject to this complaint.
29. Middlesex's June 9, 2014 response were prepared and certified to be truthful and accurate by Les Jones, Health Officer-Director for Middlesex, in the course of carrying out his duties and responsibilities with regard to the ownership and/or operation of the ten regulated UST systems at the four facilities subject to this complaint.
30. Pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, authorized representatives of the EPA inspected Respondent's eight UST systems located at four facilities, specified below, on November 15, 18, and 19, 2013, in order to determine Respondent's compliance with the Act and 40 C.F.R. Part 280:
 - a) Middlesex County Highway Complex, 97 Apple Orchard Ln. North Brunswick, NJ

- b) Johnson County Park, Johnson Dr, Piscataway, NJ
- c) Middlesex County Area 1 Garage, 277 Bertrand Ave, Perth Amboy, NJ
- d) Middlesex County Area 3 Garage, 750 Jernee Mill Rd, Sayerville, NJ

Count 1, Middlesex County Highway Complex- Failure to Conduct Timely Annual Tests of the Operation of the Automatic Line Leak Detectors for Pressurized Piping for UST systems

- 31. Complainant re-alleges paragraphs 1 through 30, above with the same force and effect as if fully set forth below.
- 32. By letter dated March 28, 2014, Middlesex indicated that it is the current owner and operator of the USTs at the Middlesex Highway Complex facility.
- 33. The original New Jersey Department of Environmental Protection (“NJDEP”) Underground Storage Tank Registration application for this facility provided by Middlesex in its March 28, 2014 IRL response was signed by John J. Reiser, Jr., Middlesex County Engineer, on an unspecified date. The application indicates that the County of Middlesex was the applying tank owner. Middlesex also provided a renewal registration application signed by Christopher D. Rafano, Freeholder Director and dated March 28, 2013 which again states that Middlesex was the owner of the UST systems and Middlesex County Highways was the operator. David Campion, Director, was listed as the contact. The most recent NJDEP UST Registration Certificate is dated March 29, 2012 and lists David Campion, County of Middlesex, as the owner and point of contact. It expires on March 31, 2015.
- 34. The current NJDEP UST Registration Certificate indicates that there are six UST systems (a 6,000-gallon tank for diesel fuel storage, a 10,000-gallon tank for unleaded gasoline, a 6,000-gallon tank for “medium” diesel, and three 550-gallon tanks for waste oil). These tanks are also referred to in order as DRE1, GRE5, GRE6, WBE1, WRE2, WRE3 (WRE3 is not regulated by the federal government.)
- 35. An authorized inspector of the EPA inspected USTs at this facility on November 18, 2013.
- 36. At the time of EPA’s inspection of the USTs located at the Middlesex County Highways Complex, the UST systems were in use.
- 37. The five regulated tanks at this facility were installed as described herein. The two diesel fuel tanks and the one gasoline tank were installed in January 1976. One regulated waste oil tank was installed in January 1988 and the other regulated waste oil tank was installed in January 1976. Each of these tanks therefore is considered an “existing tank system” pursuant to 40 C.F.R. § 280.12.

38. Pursuant to 40 C.F.R. § 280.41(b), owners and operators of underground piping that routinely contains regulated substances must monitor for releases in accordance with this section.
39. The 6,000-gallon diesel fuel tank labeled DRE1 has underground piping that routinely contained regulated substances.
40. Pursuant to 40 C.F.R. § 280.41(b)(1)(i), underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector (ALLD) conducted in accordance with 40 C.F.R. § 280.44(a).
41. During the November 18, 2013 inspection, the inspector noted that DRE1 had pressurized piping and had an ALLD installed.
42. During the November 18, 2013 inspection, the inspector was provided a passing ALLD test for DRE1 dated November 26, 2012.
43. EPA's January 2014 and April 2014 IRLs specifically requested that Middlesex submit further data on ALLD testing at the facility.
44. Middlesex's March and June 2014 responses provided ALLD tests dated September 15, 2010, October 4, 2011, November 26, 2012 and December 11, 2013 for DRE1. Each of these tests is more than one year after the previous test.
45. Middlesex's IRL responses confirmed that DRE1 was the only tank at the facility that used pressurized piping and that was equipped with an ALLD.
46. As of December 22, 1998 the piping for the 6,000-gallon UST labeled DRE1, an existing tank, was equipped with an ALLD.
47. Forty C.F.R. § 280.44(a) provides, in part, that "[a]n annual test of the operation of the leak detector must be conducted in accordance with the manufacturer's requirements."
48. Respondent Middlesex was required to conduct an annual test of the operation of the ALLD for the one 6,000 gallon UST system starting no later than December 22, 1999 and continuing every year thereafter.
49. Based on the September 15, 2010 ALLD test provided by Middlesex in its IRL responses, the next annual test was due no later than September 15, 2011. No test was conducted until October 4, 2011.
50. Based on the October 4, 2011 ALLD test provided by Middlesex in its IRL responses, the next annual test was due no later than October 4, 2012. No test was conducted until November 26, 2012.

51. Based on the November 26, 2012 ALLD test provided by Middlesex in its IRL responses, the next annual test was due November 26, 2013. No test was conducted until December 11, 2013.
52. Between September 15, 2011 and October 4, 2011 Respondent Middlesex failed to conduct a test of the ALLD in accordance with 40 C.F.R. § 280.44(a) for the pressurized line at the Middlesex County Highway Complex facility.
53. Respondent Middlesex's failure to conduct an annual ALLD test during the period between September 15, 2011 and October 4, 2011 for the one pressurized line at this facility constitutes a violation of 40 C.F.R. § 280.44(a).
54. Between October 4, 2012 and November 26, 2012 Respondent Middlesex failed to conduct a test of the ALLD in accordance with 40 C.F.R. § 280.44(a) for the pressurized line at the Middlesex County Highway Complex facility.
55. Respondent Middlesex's failure to conduct an annual ALLD test during the period between October 4, 2012 and November 26, 2012 for the one pressurized line at this facility constitutes a violation of 40 C.F.R. § 280.44(a).
56. Between November 26, 2013 and December 11, 2013 Respondent Middlesex failed to conduct a test of the ALLD in accordance with 40 C.F.R. § 280.44(a) at the Middlesex County Highway Complex facility.
57. Respondent Middlesex's failure to conduct an annual ALLD test during the period between November 26, 2013 and December 11, 2013 for the one pressurized line at this facility constitutes a violation of 40 C.F.R. § 280.44(a).

Count 2, Middlesex County Highway Complex— Failure to Maintain Records of Release Detection For Underground Piping

58. Complainant re-alleges paragraphs 1 through 57 above, with the same force and effect as if fully set forth below.
59. EPA's January 18, 2014 inspection found that one diesel fuel tank (DRE1) had pressurized piping. EPA's inspector however found no evidence of monthly release detection or an annual line tightness test for the pressurized line.
60. In addition, the EPA inspector observed that the gasoline tank used a suction line and the type of suction line present required the performance of release detection (i.e., it was not exempt). The inspector was not provided any evidence of monthly release detection or a tri-annual line tightness test for this line.
61. EPA's January 13, 2014 IRL specifically requested that Middlesex describe whether piping conveys fuel by pressure or suction and requested the submission of monthly

release detection records for the period of November 18, 2012 through November 18, 2013 or evidence of line tightness tests.

62. Middlesex's March 28, 2014 IRL response provided information that the diesel fuel line (GRE6) and the unleaded gasoline line (GRE5, which also refers to the unleaded gasoline tank) convey fuel by suction and that diesel fuel line (DRE1) conveys fuel under pressure.
63. In its March 28, 2014 IRL response, Middlesex states in its cover letter in direct response to EPA's question (Note 4) regarding release detection records for the pressurized line and the non-exempt suction lines that "Evidence of release detection records may be obtained for the operators of the system at the site, who are responsible for maintenance of records. Contractors who perform periodic testing on the tank systems may also have records. We have no explanation as to why the records were not maintained."
64. In addition to the above, Middlesex's March 28, 2014 IRL response also submitted contractor documents from 2011, 2012 and 2013 that stated that the lines all had interstitial monitoring sensors for release detection but that there were no monitoring records available. The contractor documents did include what appeared to be results of vapor recovery tests on the lines but these were not line tightness tests or monthly records of release detection.
65. EPA's April 16, 2014 follow-up IRL again asked for specifics on the monitoring of the one pressurized line and the two suction lines.
66. Middlesex's June 9, 2014 IRL response states that "Attachments 3, 4, 5 and 6 document the annual line tightness testing for the years 2010 through 2013" but the response provides the same vapor recovery records as were provided in its March 2014 response and are not line tightness tests or monthly records of release detection. Respondent's June 9, 2014 response also included a vapor recovery/ALLD contractor report from September 15, 2010 which indicated that the sump sensor for the piping associated with the unleaded gasoline tank (GRE5) was not operational.
67. No other documentation of monthly release detection or line tightness tests for the one pressurized line and the two non-exempt suction lines has been provided.
68. From at least November 18, 2012 through June 9, 2014, Respondent Middlesex did not maintain records of monthly release detection or line tightness tests for the one pressurized line and two non-exempt suction lines at the Middlesex County Highway Complex facility.
69. Respondent Middlesex's failures to maintain the records of monthly release detection monitoring or line tightness testing for releases for the one pressurized line and the two non-exempt suction lines at the Middlesex County Highway Complex facility for the period from at least November 18, 2012 through June 9, 2014 constitute violations of 40

C.F.R. §§ 280.34(b), 280.34(c) and 280.45(b).

Count 3, Johnson County Park — Failure to Maintain Records of Release Detection

70. Complainant re-alleges paragraphs 1 through 69 above, with the same force and effect as if fully set forth below.
71. Respondent Middlesex has owned and/or operated and/or continues to own and/or operate one regulated petroleum UST systems (an 8,000-gallon tank for gasoline storage) located at Johnson Drive, Piscataway, NJ.
72. By letter dated March 28, 2014, Middlesex indicated that it is the current owner and operator of the UST at the Johnson County Park facility.
73. The original New Jersey Department of Environmental Protection (“NJDEP”) Underground Storage Tank Registration application for this facility provided by Middlesex in its March 28, 2014 IRL response was signed by John J. Reiser, Jr., Middlesex County Engineer, on an unspecified date. The application indicates that the County of Middlesex was the applying tank owner. Middlesex also provided, on March 28, 2014, an undated renewal registration application signed by Christopher D. Rafano, Freeholder Director, which states that the Middlesex County Office of Parks and Recreation was the operator of the UST system. The section on facility owner was left blank. Ralph G. Albanir was the listed contact. The most recent NJDEP UST Registration Certificate was dated March 29, 2012 and lists Ralph Albanir, Middlesex County c/o Health Department, as the owner and point of contact. It expires on March 31, 2015.
74. The current NJDEP UST Registration Certificate indicates that there is one UST system (an 8,000-gallon tank used for unleaded gasoline storage). This tank is listed as GPE1.
75. An authorized inspector of the EPA inspected the UST at this facility on November 15, 2013.
76. At the time of EPA’s inspection of the UST located at the Johnson County Park facility, the UST system was in use.
77. The one regulated tank at this facility is listed as being installed in January 1975 and is therefore considered an “existing tank system” pursuant to 40 C.F.R. § 280.12.
78. Pursuant to 40 C.F.R. § 280.41(a), owners and operators of underground tanks that routinely contain regulated substances must monitor for releases every thirty days in accordance with this section.
79. The 8,000-gallon underground tank labeled GPE1 routinely contained gasoline, a regulated substance.

80. EPA's November 15, 2013 inspection indicated that the one tank at this facility was monitored monthly for releases via a Veeder Root TLS 350 automatic tank gauge (ATG) but no monthly records were provided on November 15, 2013 to the inspector other than a printout for the day of the inspection.
81. EPA's January 13, 2014 IRL requested that Middlesex provide evidence that monthly release detection records were maintained for the one tank at this facility for the period of November 15, 2012 until the date of the IRL.
82. Middlesex's response provided passing continuous statistical leak detection (CSLD) records only for the period of November 2012 through May 2013 and then for November 15, 2013 through March 2014. The record provided for June 25, 2013 only stated that "All functions normal" which does not adequately indicate a passing release detection test. There were no records for July through October 2013. Thus, records were missing from June 1, 2013 through November 15, 2013.
83. In addition to the above, in its March 28, 2014 cover letter responding to EPA's IRL, Middlesex states that "Evidence of leak detection records may be obtained for the operators of the system at Johnson Park. Those operators are responsible for their maintenance. We have no explanation as to why the records were not maintained."
84. EPA's April 16, 2014 IRL again requested that Middlesex provide evidence that monthly CSLD records or another form of release detection records for a method approved under 40 C.F.R. § 280.43 were maintained for the one tank at this facility for the period of June 2013 through October 2013.
85. Middlesex's June 9, 2014 response provides the same release detection records as had been provided in its previous response. It also includes the same June 25, 2013 result noted above. No records for July through October, 2013 are provided.
86. Between at least June 1, 2013 and November 15, 2013, Respondent Middlesex did not maintain records of release detection for its one UST system at the Johnson County Park facility.
87. Respondent Middlesex's failures to maintain the records of monitoring for releases for the one UST system located at the Johnson County Park facility for the period of June 1, 2013 through November 15, 2013 constitute violations of 40 C.F.R. §§ 280.34(b), 280.34(c) and 280.45(b).

Count 4, Middlesex County Area 1 Garage—Failure to Maintain Records of Release Detection

88. Complainant re-alleges paragraphs 1 through 87 above, with the same force and effect as if fully set forth below.

89. Respondent Middlesex has owned and/or operated and/or continues to own and/or operate two regulated petroleum UST systems (a 2,500-gallon tank for diesel fuel storage and a 4,000-gallon tank for gasoline storage) located at 277 Bertrand Ave., Perth Amboy, NJ.
90. By letter dated March 28, 2014, Middlesex indicated that it is the current owner and operator of the USTs at the Middlesex Area 1 Garage facility.
91. The original New Jersey Department of Environmental Protection ("NJDEP") Underground Storage Tank Registration application for this facility provided by Middlesex in its March 28, 2014 IRL response was signed by John J. Reiser, Jr., Middlesex County Engineer, on an unspecified date. The application indicates that the County of Middlesex was the applying tank owner. Middlesex also provided on March 28, 2014 IRL response a renewal registration application dated March 28, 2012 and signed by Christopher D. Rafano, Freeholder Director, which states that the Middlesex County Highways was the operator of the UST systems. The section on facility owner lists County of Middlesex as owner. David R. Campion was the listed contact. The current NJDEP UST Certificate is dated March 29, 2012 and lists David Campion, County of Middlesex, as the owner and point of contact. The certificate expires on March 31, 2015.
92. The current NJDEP UST Registration Certificate indicates that there are two UST systems (a 2,500-gallon tank for medium diesel fuel storage listed as DRE3 and a 4,000-gallon tank for unleaded gasoline storage listed as G8E1).
93. An authorized inspector of the EPA inspected USTs at this facility on November 19, 2013.
94. At the time of EPA's inspection of the USTs located at the Middlesex County Area 1 Garage facility, the UST systems were not in use having been taken temporarily out of service to install a card reader on the dispensers. The Middlesex representatives told the inspector that the tanks do normally operate and were expected to come back online within a week of the inspection.
95. The two regulated tanks at this facility are listed as being installed in January 1995 and are therefore considered "new tank systems" pursuant to 40 C.F.R. § 280.12.
96. Pursuant to 40 C.F.R. § 280.41(a), owners and operators of underground tanks that routinely contain regulated substances must monitor for releases every thirty days in accordance with this section.
97. The two underground tanks at this facility routinely contain regulated substances.

98. EPA's November 19, 2013 inspection determined that the two USTs at this facility were monitored for releases via an automatic tank gauge (ATG) that conducted both CSLD and electronic interstitial monitoring.
99. The EPA inspector reviewed release detection records. While he was provided with twelve months of records for the diesel fuel tank, he was provided with only eight months of CSLD records for the gasoline tank. There were no records for the gasoline tank for the months of April, August, September and October, 2013. Also, interstitial monitoring records for the gasoline tank except for the day of the inspection were not provided.
100. EPA's January 13, 2014 IRL to Middlesex specifically requested that it provide evidence that monthly release detection records were maintained for the gasoline tank at this facility for the months of April, August, September and October, 2013.
101. Middlesex's March 28, 2014 IRL response states that "Evidence of leak detection records may be obtained for the operators of the system at the Area 1 Garage. Those operators are responsible for their maintenance. We have no explanation as to why the records were not maintained." No monthly release detection records were provided in the response.
102. EPA's April 16, 2014 follow-up IRL again requested monthly release detection records for the gasoline tank at this facility for the months of April, August, September and October, 2013.
103. Middlesex's June 9, 2014 IRL response states "These documents are unable to be provided as requested. The monitoring system for this location sends a transmission to a predetermined fax machine with the monthly release detection results. The administrative personnel at the fax location, did not maintain the documents. This has been immediately resolved and the documents are maintained at the appropriate facility. This will continue to be monitored by the county's improvement plan as noted above."
104. For the months of April, August, September, and October 2013, Respondent Middlesex did not maintain monthly records of release detection for the gasoline UST system at the Middlesex County Area 1 Garage facility.
105. Respondent Middlesex's failures to maintain records of monitoring for releases for the gasoline UST system located at the Middlesex County Area 1 Garage facility for the months of April, August, September, and October 2013 constitute violations of 40 C.F.R. §§ 280.34(b), 280.34(c) and 280.45(b).

Count 5, Middlesex County Area 3 Garage- Failure to Conduct Timely Annual Tests of the Operation of the Automatic Line Leak Detectors for Pressurized Piping for UST systems

106. Complainant re-alleges paragraphs 1 through 105, above with the same force and effect as if fully set forth below.

107. Respondent Middlesex has owned and/or operated and/or continues to own and/or operate two regulated petroleum UST systems (one 6,000-gallon tank each for gasoline and diesel fuel storage). Both tanks are located at 750 Jernee Mill Road, Sayerville, NJ.
108. By letter dated March 28, 2014, Middlesex indicated that it is the current owner and operator of the USTs at the Middlesex County Area 3 Garage.
109. The original New Jersey Department of Environmental Protection ("NJDEP") Underground Storage Tank Registration application for this facility provided by Middlesex in its March 28, 2014 IRL response was signed by Stephen J. Capestro, Freeholder Director, Middlesex County Board of Chosen Freeholders on April 4, 1991. The application indicates that the County of Middlesex was the applying tank owner. Middlesex also provided in its March 28, 2014 IRL response a renewal registration application signed by Christopher D. Rafano, Freeholder Director and dated March 28, 2013 which again stated that Middlesex was the owner of the UST systems and that Middlesex County Highways was the operator. David Campion, Director, was listed as contact. The current NJDEP UST Certificate is dated March 29, 2012 and lists David Campion, County of Middlesex, as the owner and point of contact. The certificate expires on March 31, 2015.
110. The current NJDEP UST Registration Certificate indicates that there are three UST systems (one 6,000-gallon tank each for gasoline and diesel fuel storage and a 550-gallon "waste oil" tank). The waste oil tank was determined by the EPA inspector to be part of an oil/water separator which is not regulated under federal UST regulations. The regulated tanks are listed as OOC1 (gasoline) and OOC2 (diesel).
111. An authorized inspector of the EPA inspected USTs at this facility on November 19, 2013.
112. At the time of EPA's inspection of the USTs located at the Middlesex County Area 3 Garage facility, the UST systems were in use.
113. The two regulated tanks at this facility were installed in January 1991 and are therefore considered "new tank systems" pursuant to 40 C.F.R. § 280.12.
114. Pursuant to 40 C.F.R. § 280.41(b), owners and operators of underground piping that routinely contains regulated substances must monitor for releases in accordance with this section.
115. The two USTs at this facility have underground piping that routinely contained regulated substances.
116. Pursuant to 40 C.F.R. § 280.41(b)(1)(i), underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector (ALLD) conducted in accordance with 40 C.F.R. § 280.44(a).

117. During EPA's November 19, 2013 inspection, it was confirmed that the two USTs used pressurized piping that were equipped with ALLDs. However, the inspector was only provided with an annual performance test for the ALLDs conducted on 2008 (specific date not provided).
118. EPA's January 13, 2014 IRL to Middlesex specifically requested that it provide all ALLD tests for the period of November 19, 2008 through the present for the two pressurized lines.
119. Middlesex's March 28, 2014 IRL response states "Evidence of leak detection records may be obtained for the operators of the system at the site; who are responsible for maintenance of records. Contractors who perform periodic testing on the tank systems may also have records. We have no explanation as to why the records were not maintained." The response also provides reports from ATS Environmental Systems from 2011, 2012 and 2013. These reports provided ALLD test records dated as follows: October 5, 2011, December 4, 2012, and December 12, 2013. These test records indicate that the tests were performed more than twelve months apart.
120. EPA's April 16, 2014 follow-up IRL again requests that Middlesex provide any other ALLD test records for the period of November 19, 2008 through the present for the two pressurized lines that were not already submitted in the previous IRL response.
121. Middlesex's June 9, 2014 IRL response's Attachments 1, 2 and 7 provided ALLD test records for the following dates: July 17, 2008; July 23, 2009; September 17, 2010; October 5, 2011; December 4, 2012; and December 12, 2013.
122. Forty C.F.R. § 280.44(a) provides, in part, that "[a]n annual test of the operation of the leak detector must be conducted in accordance with the manufacturer's requirements."
123. Respondent Middlesex was required to conduct an annual test of the operation of the ALLD for the piping associated with the two 6,000 gallon UST systems starting no later than December 22, 1999 and continuing every year thereafter.
124. Based on the July 23, 2009 ALLD test record provided by Middlesex in its IRL responses, the next annual tests of the two ALLD systems were due July 23, 2010. No tests were conducted until September 17, 2010.
125. Based on the September 17, 2010 ALLD test provided by Middlesex in its IRL responses, the next annual tests were due September 17, 2011. No tests were conducted until October 5, 2011.
126. Based on the October 5, 2011 ALLD test record provided by Middlesex in its IRL responses, the next annual tests were due October 5, 2012. No tests were conducted until December 4, 2012.

127. Based on the December 4, 2012 ALLD test record provided by Middlesex in its IRL responses, the next annual tests were due December 4, 2013. No tests were conducted until December 12, 2013.
128. Between July 23, 2010 and September 17, 2010 Respondent Middlesex failed to conduct annual tests of the ALLDs in accordance with 40 C.F.R. § 280.44(a) for the two pressurized lines at the Middlesex County Area 3 Garage facility.
129. Respondent Middlesex's failure to conduct annual ALLD tests during the period between July 23, 2010 and September 17, 2010 for the two pressurized lines at this facility constitutes a violation of 40 C.F.R. § 280.44(a).
130. Between September 17, 2011 and October 5, 2011 Respondent Middlesex failed to conduct annual tests of the ALLDs in accordance with 40 C.F.R. § 280.44(a) for the pressurized lines at the Middlesex County Area 3 Garage facility.
131. Respondent Middlesex's failure to conduct annual ALLD tests during the period between September 17, 2011 and October 5, 2011 for the two pressurized lines at this facility constitutes a violation of 40 C.F.R. § 280.44(a).
132. Between October 5, 2012 and December 4, 2012, Respondent Middlesex failed to conduct annual tests of the ALLDs in accordance with 40 C.F.R. § 280.44(a) for the two pressurized lines at the Middlesex County Area 3 Garage facility.
133. Respondent Middlesex's failure to conduct annual ALLD tests during the period between October 5, 2012 and December 4, 2012 for the two pressurized lines at this facility constitutes a violation of 40 C.F.R. § 280.44(a).
134. Between December 4, 2013 and December 12, 2013, Respondent Middlesex failed to conduct annual tests of the ALLDs in accordance with 40 C.F.R. § 280.44(a) for the two pressurized lines at the Middlesex County Area 3 Garage facility.
135. Respondent Middlesex's failure to conduct annual ALLD tests during the period between December 4, 2013 and December 12, 2013 for the two pressurized lines at this facility constitutes a violation of 40 C.F.R. § 280.44(a).

Count 6, Middlesex County Area 3 Garage — Failure to Maintain Records of Release Detection For Pressurized Piping

136. Complainant re-alleges paragraphs 1 through 135 above, with the same force and effect as if fully set forth below.
137. During EPA's November 19, 2013 inspection, it was confirmed that the Middlesex County Area 3 Garage facility has two underground pressurized lines for the two UST

systems (one 6,000-gallon tank each for gasoline and diesel fuel storage) located at this facility. The piping was determined to be monitored monthly via liquid status sensors in the sumps. However, no monthly records of this monitoring were provided other than for the day of the inspection. The inspector was also not provided evidence of an annual line tightness test.

138. EPA's January 13, 2014 IRL to Middlesex specifically requested that it provide monthly release detection records for the two pressurized lines at the facility for the period of November 19, 2012 through the date of receipt of the IRL or, alternatively, that it provide a line tightness test for the lines conducted during the period of November 19, 2012 through November 19, 2013.
139. Middlesex's March 28, 2014 IRL response states "Evidence of leak detection records may be obtained for the operators of the system at the site; who are responsible for maintenance of records. Contractors who perform periodic testing on the tank systems may also have records. We have no explanation as to why the records were not maintained." The response also provides reports from ATS Environmental Systems from 2011, 2012 and 2013. These reports are primarily for stage II vapor recovery required under air pollution rules. They do not provide line tightness tests or records of monthly monitoring for the pressurized lines.
140. EPA's April 16, 2014 follow-up IRL again requests that Middlesex provide monthly release detection records for the two pressurized lines at the facility for the period of November 19, 2012 through the date of receipt of the IRL or, alternatively, that it provide a line tightness test result for the lines conducted during the period of November 19, 2012 through November 19, 2013.
141. Middlesex's June 9, 2014 IRL response states that line tightness tests were included in "Attachment 1." However, this attachment re-submitted the same reports from ATS Environmental System dated December 4, 2012 and December 12, 2013 which only contained stage II vapor recovery results.
142. No other documentation of monthly release detection or line tightness tests for the two pressurized lines has been submitted to EPA.
143. From at least November 19, 2012 through June 9, 2014, Respondent Middlesex did not maintain records of release detection and/or provide annual line tightness tests for the two pressurized lines at the Middlesex County Area 3 Garage facility.
144. Respondent Middlesex's failure to maintain the records of monitoring for releases for the two pressurized lines at the Middlesex County Area 3 Garage for the period of at least November 18, 2012 through June 9, 2014 constitute violations of 40 C.F.R. §§ 280.34(b), 280.34(c) and 280.45(b).

PROPOSED CIVIL PENALTY

Section 9006(d)(2)(A) of the Act, 42 U.S.C. § 6991e (d)(2)(A), authorizes the assessment of a civil penalty against any person of up to \$10,000 for each UST for each day of violation of any requirement or standard promulgated by the Administrator of EPA. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection and Improvement Act of 1996, Pub. L. No. 104-34, 110 Stat. 1321 (1996), required EPA to adjust its penalties for inflation on a periodic basis. EPA issued a Civil Monetary Penalty Inflation Adjustment Rule on December 31, 1996, set forth in 61 *Fed. Reg.* 69360 (1996); on February 13, 2004, 69 *Fed. Reg.* 7121 (2004); and on December 11, 2008, 73 *Fed. Reg.* 239 (2008), codified at 40 C.F.R. Part 19.

Under Table I of the Civil Monetary Penalty Inflation Adjustment Rule, the maximum civil penalty under Section 9006(d)(2) of the Act, 42 U.S.C. § 6991e(d)(2), for each UST for each day of violation occurring after March 15, 2004 and before January 13, 2009 is \$11,000. The maximum civil penalty for a violation(s) occurring on January 13, 2009 and afterwards was increased to \$16,000.

The penalties are proposed pursuant to the “U.S. EPA Penalty Guidance for Violations of UST Requirements,” dated November 1990 (“UST penalty guidance”; a copy of which is available upon request or at this Internet address: <http://www.epa.gov/swerust1/directiv/od961012.htm>). The penalty amounts in this UST penalty guidance were amended by a September 21, 2004 document entitled, “Modifications to EPA Penalty Policies to implement the Civil Monetary Penalty Inflation Rule (pursuant to the Debt Collection Improvement Act of 1996, Effective October 1, 2004),” and a December 29, 2008 document entitled, “Amendments to EPA’s Civil Penalty Policies to Implement the 2008 Civil Monetary Penalty Inflation Adjustment Rule (Effective January 12, 2009).” A more specific guidance entitled “Revision to Adjusted Penalty Policy Matrices Issued on November 16, 2009” was issued on April 6, 2010. (These documents are available upon request.) The penalty guidance for UST violations provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors to particular cases.

Based upon the facts alleged in this Complaint and taking into account factors such as the seriousness of the violations and any good faith efforts by the Respondent to comply with the applicable requirements, Complainant proposes, subject to receipt and evaluation of further relevant information, that the following civil penalties be assessed against the Respondent:

Facility/Count Number	UST(s) at issue	40 CFR Part 280 requirement violated	Violation summary – failure to:	Proposed penalty for count
Middlesex County Highway Complex/1	DRE1	44(a)	Conduct Annual ALLD Test	\$ 6,401
Middlesex Highway Complex/2	DRE1, GRE5, GRE6	45	Maintain Release Detection Records	\$ 7,616
Johnson County Park/3	GPE1	45	Maintain Release Detection Records	\$ 268
Middlesex County Area 1 Garage/4	DRE3, G8E1	45	Maintain Release Detection Records	\$ 499
Middlesex County Area 3 Garage/5	OOC1, OOC2	44(a)	Conduct Annual ALLD Test	\$34,056
Middlesex County Area 3 Garage/6	OOC1, OOC2	45	Maintain Release Detection Records	\$15,036
Total Penalty				\$63,876

A copy of the document with the penalty calculation is attached.

COMPLIANCE ORDER

Pursuant to the authority granted EPA in Section 9006 of the Act, 42 U.S.C. § 6991e, Complainant issues the following Compliance Order against Respondent. This Compliance Order shall become final (*i.e.* take effect) thirty (30) days after service of this Compliance Order (henceforth, the “effective date”) unless, by said date, Respondent has requested a hearing as provided for in 40 C.F.R. § 22.15. See 42 U.S.C. § 6991(e)(b) and 40 C.F.R. §§ 22.37(b) and 22.7(c). Pursuant to this Compliance Order, Respondent shall:

- 1) **Middlesex County Highway Complex, 97 Apple Orchard Lane, North Brunswick, NJ:** Beginning immediately upon the effective date of this Order, Respondent Middlesex as owner and operator of the UST systems at the facility, shall comply with the recordkeeping requirements of 40 C.F.R. §§ 280.34(b), 280.34(c) and 280.45 for the one pressurized line and two suction lines at this facility. Respondent shall also ensure that it conducts a timely ALLD test by no later than December 11, 2014 in accordance with 40 C.F.R. § 280.44(a), shall submit to EPA the results of this test within 30 days of receiving the results, and shall conduct an annual ALLD test each year (defined as no later than 365 days after performance of the prior test) thereafter.
- 2) **Johnson County Park, Johnson Drive, Piscataway, NJ:** Beginning immediately upon the effective date of this Order, Respondent Middlesex as owner and operator of the UST systems at the facility, shall comply with the recordkeeping requirements of 40 C.F.R. §§ 280.34(b), 280.34(c) and 280.45 for the one underground tank at this facility.
- 3) **Middlesex County Area 1 Garage, 277 Bertrand Ave., Perth Amboy, NJ:** Beginning immediately upon the effective date of this Order, Respondent Middlesex as owner and operator of the UST systems at the facility, shall comply with the recordkeeping requirements of 40 C.F.R. §§ 280.34(b), 280.34(c) and 280.45 for the two underground tanks at this facility.
- 4) **Middlesex County Area 3 Garage, 750 Jernee Mill Road, Sayerville, NJ:** Beginning immediately upon the effective date of this Order, Respondent Middlesex as owner and operator of the UST systems at the facility, must comply with the recordkeeping requirements of 40 C.F.R. §§ 280.34(b), 280.34(c) and 280.45 for the two pressurized lines at this facility. Respondent shall also ensure that it conducts a timely ALLD test by no later than December 12, 2014 in accordance with 40 C.F.R. § 280.44(a), shall submit the results to EPA of each test within 30 days of receiving the results, and shall conduct annual ALLD tests each year (defined as no later than 365 days after performance of the prior test) thereafter.
- 5) Respondent shall maintain compliance with all applicable requirements of 40 C.F.R. Part 280 for each federally regulated UST system (as covered under 40 C.F.R. § 280.10) at any of its facilities where it is an owner and/or operator of an UST system.
- 6) In submitting the ALLD test results as required in Paragraphs 1 and 4 above, Respondent shall include the following certification:

I certify that the information contained in this submittal is true, accurate and complete to the best of my knowledge and belief. As to the identified portions of this response for which I am unable personally to verify their truthfulness, accuracy and/or completeness, I certify that this response and all accompanying supporting documentation were prepared in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. I am aware that there are significant penalties for

submitting false, misleading and/or incomplete information, and such penalties might include criminal fines and imprisonment for knowing violations.

Signature: _____

Name: _____

Title: _____

Date: _____

These ALLD test results and any other submission by Respondent should be sent to:

Dennis McChesney, Ph.D., Team Leader
UST Team
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency - Region 2
290 Broadway, 20th Floor
New York, NY 10007-1866

Compliance with the provisions of this Compliance Order is neither intended nor shall be construed to release Respondent from liability for any past violations of 40 C.F.R. Part 280 that occurred at any of the facilities identified in counts 1 through 6, above or elsewhere. In addition, nothing herein waives, prejudices or otherwise affects EPA's right (or the right of the United States on behalf of EPA) to enforce any applicable provision of 40 C.F.R. Part 280 with regard to any UST system and to seek and obtain any appropriate penalty or other remedy permitted under law

NOTICE OF LIABILITY FOR ADDITIONAL CIVIL PENALTIES

Pursuant to Section 9006(a)(3) of the Act, 42 U.S.C. §6991e(a)(3), and in accordance with the Debt Collection and Improvement Act of 1996, Pub. L. No. 104-34, 110 Stat. 1321 (1996) and the regulations promulgated there under (see the Civil Monetary Inflation Rule, 73 Fed. Reg. 75340 (December 11, 2008), codified at 40 C.F.R. Part 19), a violator failing to comply within the time specified in the Order with the requirements of a Compliance Order that has taken effect is liable for a civil penalty up to \$37,500 for each day of continued noncompliance.

PROCEDURES GOVERNING THIS ADMINISTRATIVE LITIGATION

Upon receipt of a compliance order issued under RCRA section 3008(a), Respondent may seek administrative review in accordance with 40 C.F.R. Part 22. The Respondent may seek judicial review of the compliance order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701 – 706, once it is final and reviewable pursuant to RCRA Section 9006(b) and 40 C.F.R. Part 22.

The rules of procedure governing this civil administrative litigation have been set forth in 40 C.F.R. Part 22, entitled, "CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENTS OF CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION ORDERS, AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS" (hereinafter "Consolidated Rules"). A copy of these rules accompanies this "Complaint, Compliance Order, and Notice of Opportunity for Hearing" (hereinafter the "Complaint").

A. Answering the Complaint

Where Respondent intends to contest any material fact upon which the Complaint is based, to contend that the proposed penalty and/or the compliance order is inappropriate or to contend that Respondent is entitled to judgment as a matter of law, Respondent must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written answer to the Complaint, and such Answer must be filed within 30 days after service of the Complaint. 40 C.F.R. §§ 22.15(a) and 22.7(c). The address of the Regional Hearing Clerk of EPA, Region 2, is:

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

(NOTE: Any documents that are filed after the Answer has been filed should be filed as specified in "D" below.)

Respondent shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. 40 C.F.R. § 22.15(a).

Respondent's Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which Respondent has any knowledge. 40 C.F.R. § 22.15(b). Where Respondent lacks knowledge of a particular factual allegation and so states in its Answer, the allegation is deemed denied. 40 C.F.R. § 22.15(b). The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense; (2) the facts that Respondent disputes (and thus intends to place at issue in the proceeding); and (3) whether Respondent requests a hearing. 40 C.F.R. § 22.15(b).

Respondent's failure to affirmatively raise in the Answer facts that constitute or that might constitute the grounds of its defense may preclude Respondent, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a hearing.

B. Opportunity to Request a Hearing

If requested by Respondent in its Answer, a hearing upon the issues raised by the Complaint and Answer may be held. 40 C.F.R. § 22.15(c). If, however, Respondent does not request a hearing, the Presiding Officer (as defined in 40 C.F.R. § 22.3) may hold a hearing if the Answer raises issues appropriate for adjudication. 40 C.F.R. § 22.15(c). With regard to the Compliance Order in the Complaint, unless Respondent requests a hearing pursuant to 40 C.F.R. § 22.15 within 30 days after such Order is served, such Order shall automatically become final. 40 C.F.R. § 22.37.

Any hearing in this proceeding will be held at a location determined in accordance with 40 C.F.R. § 22.21(d). A hearing of this matter will be conducted in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. §§ 551-59, and the procedures set forth in Subpart D of 40 C.F.R. Part 22.

C. Failure to Answer

If Respondent fails in its Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. 40 C.F.R. § 22.15(d). If Respondent fails to file a timely [*i.e.* in accordance with the 30-day period set forth in 40 C.F.R. § 22.15(a)] Answer to the Complaint, Respondent may be found in default upon motion. 40 C.F.R. § 22.17(a). Default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. 40 C.F.R. § 22.17(a). Following a default by Respondent for a failure to timely file an Answer to the Complaint, any order issued therefore shall be issued pursuant to 40 C.F.R. § 22.17(c).

Any penalty assessed in the default order shall become due and payable by the Respondent without further proceedings 30 days after the default order becomes final pursuant to 40 C.F.R. § 22.27(c). 40 C.F.R. § 22.17(d). If necessary, EPA may then seek to enforce such final order of default against Respondent, and to collect the assessed penalty amount. Any default order requiring compliance action shall be effective and enforceable against Respondent without further proceedings on the date that the default order becomes final under 40 C.F.R. § 22.27(c). 40 C.F.R. § 22.17(d).

D. Filing of Documents Filed After the Answer

Unless otherwise ordered by the Presiding Officer for this proceeding, all documents filed after Respondent has filed an Answer should be filed with the Headquarters Hearing Clerk acting on behalf of the Regional Hearing Clerk, addressed as follows:

If filing by the United States Postal Service:

Sybil Anderson
Headquarters Hearing Clerk
Office of the Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900R
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

If filing by UPS, FedEx, DHL or other courier or personal delivery, address to:

Sybil Anderson
Headquarters Hearing Clerk
Office of the Administrative Law Judges
Ronald Reagan Building, Room M1200
U.S. Environmental Protection Agency
1300 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

E. Exhaustion of Administrative Remedies

Where Respondent fails to appeal an adverse initial decision to the Environmental Appeals Board pursuant to 40 C.F.R. § 22.30, and that initial decision thereby becomes a final order pursuant to the terms of 40 C.F.R. § 22.27(c), Respondent waives its right to judicial review. 40 C.F.R. § 22.27(d).

In order to appeal an initial decision to the Agency's Environmental Appeals Board [EAB; see 40 C.F.R. § 1.25(e)], Respondent must do so "within thirty (30) days after the initial decision is served" upon the parties. 40 C.F.R. § 22.30(a). Pursuant to 40 C.F.R. § 22.7(c), where service is effected by mail, "5 days shall be added to the time allowed by these Consolidated Rules of Practice for the filing of a responsive document". Note that the 45-day period provided for in 40 C.F.R. § 22.27(c) [discussing when an initial decision becomes a final order] does not pertain to or extend the time period prescribed in 40 C.F.R. § 22.30(a) for a party to file an appeal to the EAB of an adverse initial decision.

INFORMAL SETTLEMENT CONFERENCE

Whether or not Respondent requests a formal hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. 40 C.F.R. § 22.18(b). At an informal conference with a representative(s) of Complainant, Respondent may comment on the charges made in this Complaint, and Respondent may also provide whatever additional information that it believes is relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged; (2) any information relevant to Complainant's calculation of the proposed penalty; (3) the effect the

proposed penalty would have on Respondent's ability to continue in business; and/or (4) any other special facts or circumstances Respondent wishes to raise.

Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with Respondent, to reflect any relevant information previously not known to Complainant, or to dismiss any or all of the charges, if Respondent can demonstrate that the relevant allegations are without merit and that no cause of action as herein alleged exists. Respondent is referred to 40 C.F.R. § 22.18.

Any request for an informal conference or any questions that Respondent may have regarding this Complaint should be directed to:

Carl R. Howard
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866
(212) 637- 3216
(212) 637-3199 (fax)

The parties may engage in settlement discussions irrespective of whether Respondent has requested a hearing. 40 C.F.R. § 22.18(b)(1). Respondent's requesting a formal hearing does not prevent it from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint. Complainant does not deem a request for an informal settlement conference as a request for a hearing as specified in 40 C.F.R. § 22.15(c).

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 C.F.R. § 22.15. No penalty reduction, however, will be made simply because an informal settlement conference is held.

Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written consent agreement. 40 C.F.R. § 22.18(b)(2). In accepting the consent agreement, Respondent waives its right to contest the allegations in the Complaint and waives its right to appeal the final order that is to accompany the consent agreement. 40 C.F.R. § 22.18(b)(2). In order to conclude the proceeding, a final order ratifying the parties' agreement to settle will be executed. 40 C.F.R. § 22.18(b)(3).


Respondent's entering into a settlement through the signing of such Consent Agreement and its complying with the terms and conditions set forth in the such Consent Agreement terminates this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint. Respondent's entering into a settlement does not extinguish, waive, satisfy or

otherwise affect its obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

If, instead of filing an Answer, Respondent wishes not to contest the Compliance Order in the Complaint and wants to pay the total amount of the proposed penalty within thirty (30) days after receipt of the Complaint, Respondent should promptly contact the Assistant Regional Counsel identified above.

Dated: SEPTEMBER 30, 2014



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency -Region 2
290 Broadway
New York, NY 10007-1866

**To: Ronald G. Rios
 Director
 Board of Chosen Freeholders
 County of Middlesex
 County Administration Building - First Floor
 75 Bayard Street
 New Brunswick, NJ 08901**

**cc: Michael Hastry, Chief
 Bureau of Hazardous Waste and UST Compliance and Enforcement
 New Jersey Department of Environmental Protection
 Mail Code 09-03
 9 Ewing Street
 P.O. Box 420
 Trenton, New Jersey 08625-0420**

In the Matter of County of Middlesex, New Jersey
Docket Number RCRA-02-2014-7505

CERTIFICATE OF SERVICE

This is to certify that on the 3 day of October, 2014, I caused to be mailed a true and correct copy of the foregoing "COMPLAINT, COMPLIANCE ORDER AND NOTICE OF OPPORTUNITY FOR HEARING," bearing Docket Number RCRA-02-2014-7505 (henceforth referred to as the "Complaint"), and with a copy of the "CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENTS OF CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION COMPLIANCE ORDERS, AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS," 40 C.F.R. Part 22, by certified mail, return receipt requested, to the following addressees listed below. I hand carried the original and a copy of the Complaint to the office of the Regional Hearing Clerk of the United States Environmental Protection Agency, Region 2, 290 Broadway, 16th floor, New York, New York 10007-1866.

Ronald G. Rios
Director
Board of Chosen Freeholders
County of Middlesex
County Administration Building - First Floor
75 Bayard Street
New Brunswick, NJ 08901



Dated: 10/3, 2014
New York, New York

Middlesex County
Summary of Counts
Counts Cited

As of September 11, 2014

Penalties (see worksheets for specific information)

Count #	Proposed Penalty	Gravity: \$	Eco Benefit: \$	# of Components	Start	End	Subcount Total	
Count #1a								
Proposed Penalty	\$ 2,130.00	\$ 2,120.00	\$ 10.00	1 line	9/15/2011	10/4/2011		
Count #1b								
Proposed Penalty	\$ 2,144.00	\$ 2,120.00	\$ 24.00	1 line	10/4/2012	11/26/2012		
Count #1c								
Proposed Penalty	\$ 2,127.00	\$ 2,120.00	\$ 7.00	1 line	11/26/2013	12/11/2013	\$ 6,401.00	
Count #2								
Proposed Penalty	\$ 7,616.00	\$ 7,420.00	\$ 196.00	1 facility	11/18/2012	6/9/2014		
Count #3								
Proposed Penalty	\$ 268.00	\$ 210.00	\$ 58.00	1 facility	6/1/2013	11/15/2013		
Count #4								
Proposed Penalty	\$ 499.00	\$ 420.00	\$ 79.00	1 facility	4/2/2013	11/16/2013		
Count #5a								
Proposed Penalty	\$ 8,534.00	\$ 8,480.00	\$ 54.00	2 lines	7/23/2010	9/17/2010		
Count #5b								
Proposed Penalty	\$ 8,499.00	\$ 8,480.00	\$ 19.00	2 lines	9/17/2011	10/5/2011		
Count #5c								
Proposed Penalty	\$ 8,535.00	\$ 8,480.00	\$ 55.00	2 lines	10/5/2012	12/4/2012		
Count #5d								
Proposed Penalty	\$ 8,488.00	\$ 8,480.00	\$ 8.00	2 lines	12/4/2013	12/12/2013	\$ 34,056.00	
Count #6								
Proposed Penalty	\$ 15,036.00	\$ 14,840.00	\$ 196.00	1 facility	11/19/2012	6/9/2014		
TOTAL PENALTY		\$ 63,876.00	\$ 63,170.00	\$ 706.00				

Facility 1: NJ DEP PI ID: 012722: Middlesex County Highway Complex & CVM, 97 Apple Orchard Lane, North Brunswick, NJ
 Facility 2: NJ DEP PI ID: 012734: Johnson County Park, Johnson Drive, Piscataway, NJ
 Facility 3: NJDEP PI ID: 012741: Middlesex County Area 1 Garage, 277 Bertrand Ave., Perth Amboy, NJ
 Facility 4: NNJDEP PI ID 020668: Middlesex County Area 3 Garage, 750 Jernee Mill Road, Sayreville, NJ

Site: Middlesex County Highway Complex & CVM, 97 Apple Orchard Lane, North Brunswick, NJ
 Violation: Count 1a: §280.44(a) - Document performance claims (1st Occurrence)

- 1. Days of noncompliance: 15-Sep-11 4-Oct-11
- 2. Number of facilities, tanks or pipes: 1
- 3. Total number of days: 20

Part 2 - Economic Benefit Component (See BEN computer model v. 5.3):

- 4. One Time Capital & Time Costs: \$ -
- 5. Delay Capital & Avoided Costs: \$ -
- 6. Avoided Annually Recurring Costs: \$ 8.00
- 7. Initial Economic Benefit (4-5+6): \$ 8.00
- 8. Final Economic Benefit at Penalty Payment Date: \$ 10.00

Part 3 - Matrix Value For The Gravity-Based Component:

9. Matrix Value (MV): 1,500

Inflation Adjustment Rules:

	Value	Start Date	End Date	Inflation	Value+Inflation	Round To	Matrix	Total
10a.	1,500	9/15/2011	10/4/2011	1.4163	\$ 2,124.45	10	\$ 2,120.00	\$ 2,120.00

Note: Inflation adjustments are defined as:
 a. 9.83% increase effective Jan 13,2009

Potential for Harm: Major Extent of Deviation: Major

Justifications for Potential for Harm and Extent of Deviation: See OSWER Directive 9610.12, Appendix A.

Part 4 - Violator-Specific Adjustments To Matrix Value:

	% Change	Matrix Value	Total Dollar Adjustment
11a. Degree of cooperation or noncooperation:	0%	\$2,120.00	-
12a. Degree of willfulness or negligence:	0%	\$2,120.00	-
13a. History of noncompliance:	0%	\$2,120.00	-
14a. Unique factors:	0%	\$2,120.00	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			\$2,120.00

Justification for Degree of Cooperation/ Noncooper **no adjustmer** No adjustment was made.
 Justification for Degree of Willfulness or Negligenci **no adjustmer** No adjustment was made.
 Justification for History of Noncompliance: **no adjustmer** No adjustment was made.
 Justification for Unique Factors: **no adjustmer** No adjustment was made.

Calculations for Gravity Based Components (GBC) with Inflation Adjustments:

16. Environmental Sensitivity: **Low**
 17. Environmental Sensitivity Multiplier (ESM): **1**

Justification for Environmental Sensitivity Multiplier:

18. Days of Noncompliance Multiplier (DNM): **1**
 18a.

Start	End	Days	DNM
9/15/2011	10/4/2011	20	1

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
19a.	9/15/2011	10/4/2011	\$2,120.00	1	1	\$ 2,120.00

20. Total Gravity-Based Component = **\$ 2,120.00**

21. Economic Benefit Component (from line 8): **\$ 10.00**

22. Gravity-Based Component (from line 20): **\$ 2,120.00**

23. Initial Penalty Target Figure: (line 21 plus line 22): **\$ 2,130.00**

Site: Middlesex County Highway Complex & CVM, 97 Apple Orchard Lane, North Brunswick, NJ
 Violation: Count 1b: §280.44(a) - Document performance claims (2nd Occurrence)

- 1. Days of noncompliance: 4-Oct-12 26-Nov-12
- 2. Number of facilities, tanks or pipes: 1
- 3. Total number of days: 54

Part 2 - Economic Benefit Component (See BEN computer model v. 5.3):

4. One Time Capital & Time Costs:	\$	-
5. Delay Capital & Avoided Costs:	\$	-
6. Avoided Annually Recurring Costs:	\$	22.00
7. Initial Economic Benefit (4-5+6):	\$	22.00
8. Final Economic Benefit at Penalty Payment Date:	\$	24.00

Part 3 - Matrix Value For The Gravity-Based Component:

9. Matrix Value (MV): 1,500

Inflation Adjustment Rules:

	Value	Start Date	End Date	Inflation	Value+Inflation	Round To	Matrix	Total
10a.	1,500	10/4/2012	11/26/2012	1.4163	\$ 2,124.45	10	\$ 2,120.00	\$ 2,120.00

Note: Inflation adjustments are defined as:
 a. 9.83% increase effective Jan 13,2009

Potential for Harm: **Major** Extent of Deviation: **Major**

Justifications for Potential for Harm and Extent of Deviation: **See OSWER Directive 9610.12, Appendix A.**

Part 4 - Violator-Specific Adjustments To Matrix Value:

	% Change	Matrix Value	Total Dollar Adjustment
11a. Degree of cooperation or noncooperation:	0%	\$2,120.00	-
12a. Degree of willfulness or negligence:	0%	\$2,120.00	-
13a. History of noncompliance:	0%	\$2,120.00	-
14a. Unique factors:	0%	\$2,120.00	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			\$2,120.00

Justification for Degree of Cooperation/ Noncooper **no adjustmer** No adjustment was made.
 Justification for Degree of Willfulness or Negligence **no adjustmer** No adjustment was made.
 Justification for History of Noncompliance: **no adjustmer** No adjustment was made.
 Justification for Unique Factors: **no adjustmer** No adjustment was made.

Calculations for Gravity Based Components (GBC) with Inflation Adjustments:

16. Environmental Sensitivity: **Low**
 17. Environmental Sensitivity Multiplier (ESM): **1**

Justification for Environmental Sensitivity Multiplier:

18. Days of Noncompliance Multiplier (DNM): **1**

	Start	End	Days	DNM
18a.	10/4/2012	11/26/2012	54	1

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
19a.	10/4/2012	11/26/2012	\$2,120.00	1	1	\$ 2,120.00

20. Total Gravity-Based Component = **\$ 2,120.00**

21. Economic Benefit Component (from line 8): **\$ 24.00**

22. Gravity-Based Component (from line 20): **\$ 2,120.00**

23. Initial Penalty Target Figure: (line 21 plus line 22): **\$ 2,144.00**

Site: Middlesex County Highway Complex & CVM, 97 Apple Orchard Lane, North Brunswick, NJ
 Violation: Count 1c: §280.44(a) - Document performance claims (third occurrence)

- 1. Days of noncompliance: 26-Nov-13 11-Dec-13
- 2. Number of facilities, tanks or pipes: 1
- 3. Total number of days: 16

Part 2 - Economic Benefit Component (See BEN computer model v. 5.3):

- 4. One Time Capital & Time Costs: \$ -
- 5. Delay Capital & Avoided Costs: \$ -
- 6. Avoided Annually Recurring Costs: \$ 6.00
- 7. Initial Economic Benefit (4-5+6): \$ 6.00
- 8. Final Economic Benefit at Penalty Payment Date: \$ 7.00

Part 3 - Matrix Value For The Gravity-Based Component:

- 9. Matrix Value (MV): 1,500

Inflation Adjustment Rules:

	Value	Start Date	End Date	Inflation	Value+Inflation Round To	Matrix	Total
10a.	1,500	11/26/2013	12/11/2013	1.4163	\$ 2,124.45	10 \$ 2,120.00	\$ 2,120.00

Note: Inflation adjustments are defined as:
 a. 9.83% increase effective Jan 13, 2009

Potential for Harm: Major Extent of Deviation: Major

Justifications for Potential for Harm and Extent of Deviation: See OSWER Directive 9610.12, Appendix A.

Part 4 - Violator-Specific Adjustments To Matrix Value:

	% Change	Matrix Value	Total Dollar Adjustment
11a. Degree of cooperation or noncooperation:	0%	\$2,120.00	-
12a. Degree of willfulness or negligence:	0%	\$2,120.00	-
13a. History of noncompliance:	0%	\$2,120.00	-
14a. Unique factors:	0%	\$2,120.00	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			\$2,120.00

Justification for Degree of Cooperation/ Noncooper **no adjustmer** No adjustment was made.
 Justification for Degree of Willfulness or Negligence: **no adjustmer** No adjustment was made.
 Justification for History of Noncompliance: **no adjustmer** No adjustment was made.
 Justification for Unique Factors: **no adjustmer** No adjustment was made.

Calculations for Gravity Based Components (GBC) with Inflation Adjustments:

3. Environmental Sensitivity: **Low**
 7. Environmental Sensitivity Multiplier (ESM): **1**

Justification for Environmental Sensitivity Multiplier:

8. Days of Noncompliance Multiplier (DNM): **1**

	Start	End	Days	DNM
8a.	11/26/2013	12/11/2013	16	1

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
9a.	11/26/2013	12/11/2013	\$2,120.00	1	1	\$ 2,120.00

10. Total Gravity-Based Component = **\$ 2,120.00**

11. Economic Benefit Component (from line 8): **\$ 7.00**

12. Gravity-Based Component (from line 20): **\$ 2,120.00**

13. Initial Penalty Target Figure: (line 21 plus line 22): **\$ 2,127.00**

Site: **Middlesex County Highway Complex & CVM, 97 Apple Orchard Lane, North Brunswick, NJ**
 Violation: **Count 2: §280.45 - Records of monitoring**

- 1. Days of noncompliance: **18-Nov-12 9-Jun-14**
- 2. Number of facilities, tanks or pipes: **1**
- 3. Total number of days: **569**

Part 2 - Economic Benefit Component (See BEN computer model v. 5.3):

- 4. One Time Capital & Time Costs: **\$ -**
- 5. Delay Capital & Avoided Costs: **\$ -**
- 6. Avoided Annually Recurring Costs: **\$ 178.00**
- 7. Initial Economic Benefit (4-5+6): **\$ 178.00**
- 8. Final Economic Benefit at Penalty Payment Date: **\$ 196.00**

Part 3 - Matrix Value For The Gravity-Based Component:

- 9. Matrix Value (MV): **1,500**

Inflation Adjustment Rules:

	Value	Start Date	End Date	Inflation	Value+Inflation Round To	Matrix	Total
10a.	1,500	11/18/2012	6/9/2014	1.4163	\$ 2,124.45	10 \$ 2,120.00	\$ 2,120.00

Note: Inflation adjustments are defined as:

- a. **9.83% increase effective Jan 13,2009**

Potential for Harm: **Major** Extent of Deviation: **Major**

Justifications for Potential for Harm and Extent of Deviation: **See OSWER Directive 9610.12, Appendix A.**

Part 4 - Violator-Specific Adjustments To Matrix Value:

	% Change	Matrix Value	Total Dollar Adjustment
11a. Degree of cooperation or noncooperation:	0%	\$2,120.00	-
12a. Degree of willfulness or negligence:	0%	\$2,120.00	-
13a. History of noncompliance:	0%	\$2,120.00	-
14a. Unique factors:	0%	\$2,120.00	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			\$2,120.00

- Justification for Degree of Cooperation/ Noncooper **no adjustmer** No adjustment was made.
- Justification for Degree of Willfulness or Negligence **no adjustmer** No adjustment was made.
- Justification for History of Noncompliance: **no adjustmer** No adjustment was made.
- Justification for Unique Factors: **no adjustmer** No adjustment was made.

Calculations for Gravity Based Components (GBC) with Inflation Adjustments:

6. Environmental Sensitivity: **Low**
7. Environmental Sensitivity Multiplier (ESM): **1**

Justification for Environmental Sensitivity Multiplier:

8. Days of Noncompliance Multiplier (DNM): **3.5**
9a.

Start	End	Days	DNM
11/18/2012	6/9/2014	569	3.5

Calculations for Gravity Based Components:

9a.

Start	End	(AMV)	(ESM)	(DNM)	TOTAL
11/18/2012	6/9/2014	\$2,120.00	1	3.5	\$ 7,420.00

10. Total Gravity-Based Component = **\$ 7,420.00**

11. Economic Benefit Component (from line 8): **\$ 196.00**

12. Gravity-Based Component (from line 20): **\$ 7,420.00**

13. Initial Penalty Target Figure: (line 21 plus line 22): **\$ 7,616.00**

Site: **Johnson County Park, Johnson Drive, Piscataway, NJ**
 Violation: **Count 3: \$280.45 - Maintain Every Record of Release Detection Monitoring**

- 1. Days of noncompliance: **1-Jun-13 15-Nov-13**
- 2. Number of facilities, tanks or pipes: **1**
- 3. Total number of days: **168**

Part 2 - Economic Benefit Component (See BEN computer model v. 5.3):

- 4. One Time Capital & Time Costs: \$ -
- 5. Delay Capital & Avoided Costs: \$ -
- 6. Avoided Annually Recurring Costs: \$ **53.00**
- 7. Initial Economic Benefit (4-5+6): \$ **53.00**
- 8. Final Economic Benefit at Penalty Payment Date: \$ **58.00**

Part 3 - Matrix Value For The Gravity-Based Component:

- 9. Matrix Value (MV): **100**

Inflation Adjustment Rules:

	Value	Start Date	End Date	Inflation	Value+Inflation Round To	Matrix	Total
10a.	100	6/1/2013	11/15/2013	1.4163	\$ 141.63	10 \$ 140.00	\$ 140.00

Note: Inflation adjustments are defined as:

- a. **9.83% increase effective Jan 13,2009**

Potential for Harm: **Minor** Extent of Deviation: **Moderate**

Justifications for Potential for Harm and Extent of Deviation: **See OSWER Directive 9610.12, Appendix A.**

Part 4 - Violator-Specific Adjustments To Matrix Value:

	% Change	Matrix Value	Total Dollar Adjustment
11a. Degree of cooperation or noncooperation:	0%	\$140.00	-
12a. Degree of willfulness or negligence:	0%	\$140.00	-
13a. History of noncompliance:	0%	\$140.00	-
14a. Unique factors:	0%	\$140.00	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			\$140.00

- Justification for Degree of Cooperation/ Noncooperation: **no adjustmer** No adjustment was made.
- Justification for Degree of Willfulness or Negligence: **no adjustmer** No adjustment was made.
- Justification for History of Noncompliance: **no adjustmer** No adjustment was made.
- Justification for Unique Factors: **no adjustmer** No adjustment was made.

Calculations for Gravity Based Components (GBC) with Inflation Adjustments:

2013.00

6. Environmental Sensitivity: **Low**
7. Environmental Sensitivity Multiplier (ESM): **1**

Justification for Environmental Sensitivity Multiplier:

8. Days of Noncompliance Multiplier (DNM): **1.5**
9a. Start End Days DNM
6/1/2013 11/15/2013 168 1.5

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
9a.	6/1/2013	11/15/2013	\$140.00	1	1.5	\$ 210.00
10. Total Gravity-Based Component =						\$ 210.00
11. Economic Benefit Component (from line 8):						\$ 58.00
12. Gravity-Based Component (from line 20):						\$ 210.00
13. Initial Penalty Target Figure: (line 21 plus line 22):						\$ 268.00

Site: Middlesex County Area 1 Garage, 277 Bertrand Ave., Perth Amboy, NJ
 Violation: Count 4: §280.45 - Maintain Every Record of Release Detection Monitoring

- 1. Days of noncompliance: 2-Apr-13 16-Nov-13
- 2. Number of facilities, tanks or pipes: 1
- 3. Total number of days: 229

Part 2 - Economic Benefit Component (See BEN computer model v. 5.3):

- 4. One Time Capital & Time Costs: \$ -
- 5. Delay Capital & Avoided Costs: \$ -
- 6. Avoided Annually Recurring Costs: \$ 73.00
- 7. Initial Economic Benefit (4-5+6): \$ 73.00
- 8. Final Economic Benefit at Penalty Payment Date: \$ 79.00

Part 3 - Matrix Value For The Gravity-Based Component:

9. Matrix Value (MV): 100

Inflation Adjustment Rules:

	Value	Start Date	End Date	Inflation	Value+Inflation Round To	Matrix	Total
10a.	100	4/2/2013	11/16/2013	1.4163	\$ 141.63	10 \$ 140.00	\$ 140.00

Note: Inflation adjustments are defined as:
 a. 9.83% increase effective Jan 13,2009

Potential for Harm: **Minor** Extent of Deviation: **Moderate**

Justifications for Potential for Harm and Extent of Deviation: **See OSWER Directive 9610.12, Appendix A.**

Part 4 - Violator-Specific Adjustments To Matrix Value:

	% Change	Matrix Value	Total Dollar Adjustment
11a. Degree of cooperation or noncooperation:	0%	\$140.00	-
12a. Degree of willfulness or negligence:	0%	\$140.00	-
13a. History of noncompliance:	0%	\$140.00	-
14a. Unique factors:	0%	\$140.00	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			\$140.00

Justification for Degree of Cooperation/ Noncooper **no adjustmer** No adjustment was made.
 Justification for Degree of Willfulness or Negligence **no adjustmer** No adjustment was made.
 Justification for History of Noncompliance: **no adjustmer** No adjustment was made.
 Justification for Unique Factors: **no adjustmer** No adjustment was made.

Calculations for Gravity Based Components (GBC) with Inflation Adjustments:

16. Environmental Sensitivity: **Moderate**
 17. Environmental Sensitivity Multiplier (ESM): **1.5**

Justification for Environmental Sensitivity Multiplier: **Overlies NJ Coastal Plain Sole Source Aquifer**

18. Days of Noncompliance Multiplier (DNM): **2**

	Start	End	Days	DNM
18a.	4/2/2013	11/16/2013	229	2

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
19a.	4/2/2013	11/16/2013	\$140.00	1.5	2	\$ 420.00

20. Total Gravity-Based Component = **\$ 420.00**

21. Economic Benefit Component (from line 8): **\$ 79.00**

22. Gravity-Based Component (from line 20): **\$ 420.00**

23. Initial Penalty Target Figure: (line 21 plus line 22): **\$ 499.00**

Site: **Middlesex County Area 3 Garage, 750 Jernee Mill Road, Sayerville, NJ**
 Violation: **Count 5a: §280.44(a) - Document performance claims (first occurrence)**

- 1. Days of noncompliance: **23-Jul-10 17-Sep-10**
- 2. Number of facilities, tanks or pipes: **2**
- 3. Total number of days: **57**

Part 2 - Economic Benefit Component (See BEN computer model v. 5.3):

- 4. One Time Capital & Time Costs: **\$ -**
- 5. Delay Capital & Avoided Costs: **\$ -**
- 6. Avoided Annually Recurring Costs: **\$ 44.00**
- 7. Initial Economic Benefit (4-5+6): **\$ 44.00**
- 8. Final Economic Benefit at Penalty Payment Date: **\$ 54.00**

Part 3 - Matrix Value For The Gravity-Based Component:

9. Matrix Value (MV): **1,500**

Inflation Adjustment Rules:

	Value	Start Date	End Date	Inflation	Value+Inflation Round To	Matrix	Total
10a.	1,500	7/23/2010	9/17/2010	1.4163	\$ 2,124.45	10 \$ 2,120.00	\$ 4,240.00

Note: Inflation adjustments are defined as:
 a. **9.83% increase effective Jan 13,2009**

Potential for Harm: **Major** Extent of Deviation: **Major**

Justifications for Potential for Harm and Extent of Deviation: **See OSWER Directive 9610.12, Appendix A.**

Part 4 - Violator-Specific Adjustments To Matrix Value:

	% Change	Matrix Value	Total Dollar Adjustment
11a. Degree of cooperation or noncooperation:	0%	\$4,240.00	-
12a. Degree of willfulness or negligence:	0%	\$4,240.00	-
13a. History of noncompliance:	0%	\$4,240.00	-
14a. Unique factors:	0%	\$4,240.00	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			\$4,240.00

Justification for Degree of Cooperation/ Noncooper **no adjustmer** No adjustment was made.
 Justification for Degree of Willfulness or Negligence **no adjustmer** No adjustment was made.
 Justification for History of Noncompliance: **no adjustmer** No adjustment was made.
 Justification for Unique Factors: **no adjustmer** No adjustment was made.

Calculations for Gravity Based Components (GBC) with Inflation Adjustments:

00112

6. Environmental Sensitivity: **High**
7. Environmental Sensitivity Multiplier (ESM): **2**

Justification for Environmental Sensitivity Multiplier: Overlies NJ Coastal Plain Sole Source Aquifer w/ many PWS wells within 1 mile

8. Days of Noncompliance Multiplier (DNM): **1**
8a. Start End Days DNM
7/23/2010 9/17/2010 57 1

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
9a.	7/23/2010	9/17/2010	\$4,240.00	2	1	\$ 8,480.00
20. Total Gravity-Based Component =						\$ 8,480.00
21. Economic Benefit Component (from line 8):						\$ 54.00
22. Gravity-Based Component (from line 20):						\$ 8,480.00
23. Initial Penalty Target Figure: (line 21 plus line 22):						\$ 8,534.00

Site: **Middlesex County Area 3 Garage, 750 Jernee Mill Road, Sayerville, NJ**
 Violation: **Count 5b: §280.44(a) - Document performance claims (second occurrence)**

- 1. Days of noncompliance: **17-Sep-11 5-Oct-11**
- 2. Number of facilities, tanks or pipes: **2**
- 3. Total number of days: **19**

Part 2 - Economic Benefit Component (See BEN computer model v. 5.3):

- 4. One Time Capital & Time Costs: \$ -
- 5. Delay Capital & Avoided Costs: \$ -
- 6. Avoided Annually Recurring Costs: \$ **16.00**
- 7. Initial Economic Benefit (4-5+6): \$ **16.00**
- 8. Final Economic Benefit at Penalty Payment Date: \$ **19.00**

Part 3 - Matrix Value For The Gravity-Based Component:

- 9. Matrix Value (MV): **1,500**

Inflation Adjustment Rules:

	Value	Start Date	End Date	Inflation	Value+Inflation Round To	Matrix	Total
10a.	1,500	9/17/2011	10/5/2011	1.4163	\$ 2,124.45	10 \$ 2,120.00	\$ 4,240.00

Note: Inflation adjustments are defined as:
 a. **9.83% increase effective Jan 13,2009**

Potential for Harm: **Major** Extent of Deviation: **Major**

Justifications for Potential for Harm and Extent of Deviation: **See OSWER Directive 9610.12, Appendix A.**

Part 4 - Violator-Specific Adjustments To Matrix Value:

	% Change	Matrix Value	Total Dollar Adjustment
11a. Degree of cooperation or noncooperation:	0%	\$4,240.00	-
12a. Degree of willfulness or negligence:	0%	\$4,240.00	-
13a. History of noncompliance:	0%	\$4,240.00	-
14a. Unique factors:	0%	\$4,240.00	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			\$4,240.00

Justification for Degree of Cooperation/ Noncooper **no adjustmer** No adjustment was made.
 Justification for Degree of Willfulness or Negligence: **no adjustmer** No adjustment was made.
 Justification for History of Noncompliance: **no adjustmer** No adjustment was made.
 Justification for Unique Factors: **no adjustmer** No adjustment was made.

Calculations for Gravity Based Components (GBC) with Inflation Adjustments:

6. Environmental Sensitivity: **High**
 7. Environmental Sensitivity Multiplier (ESM): **2**

Justification for Environmental Sensitivity Multiplier: Overlies NJ Coastal Plain Sole Source Aquifer w/ many PWS wells within 1 mile

8. Days of Noncompliance Multiplier (DNM): **1**
 8a. Start End Days DNM
9/17/2011 10/5/2011 19 1

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
9a.	9/17/2011	10/5/2011	\$4,240.00	2	1	\$ 8,480.00
10. Total Gravity-Based Component =						\$ 8,480.00
11. Economic Benefit Component (from line 8):						\$ 19.00
12. Gravity-Based Component (from line 20):						\$ 8,480.00
13. Initial Penalty Target Figure: (line 21 plus line 22):						\$ 8,499.00

Site: **Middlesex County Area 3 Garage, 750 Jernee Mill Road, Sayerville, NJ**
 Violation: **Count 5c: §280.44(a) - Document performance claims (third occurrence)**

- 1. Days of noncompliance: **5-Oct-12 4-Dec-12**
- 2. Number of facilities, tanks or pipes: **2**
- 3. Total number of days: **61**

Part 2 - Economic Benefit Component (See BEN computer model v. 5.3):

- 4. One Time Capital & Time Costs: \$ -
- 5. Delay Capital & Avoided Costs: \$ -
- 6. Avoided Annually Recurring Costs: \$ **49.00**
- 7. Initial Economic Benefit (4-5+6): \$ **49.00**
- 8. Final Economic Benefit at Penalty Payment Date: \$ **55.00**

Part 3 - Matrix Value For The Gravity-Based Component:

9. Matrix Value (MV): **1,500**

<i>Inflation Adjustment Rules:</i>								
	Value	Start Date	End Date	Inflation	Value+Inflation Round To		Matrix	Total
10a.	1,500	10/5/2012	12/4/2012	1.4163	\$ 2,124.45	10	\$ 2,120.00	\$ 4,240.00

Note: Inflation adjustments are defined as:
 a. **9.83% increase effective Jan 13,2009**

Potential for Harm: **Major** Extent of Deviation: **Major**

Justifications for Potential for Harm and Extent of Deviation: **See OSWER Directive 9610.12, Appendix A.**

Part 4 - Violator-Specific Adjustments To Matrix Value:

	% Change	Matrix Value	Total Dollar Adjustment
11a. Degree of cooperation or noncooperation:	0%	\$4,240.00	-
12a. Degree of willfulness or negligence:	0%	\$4,240.00	-
13a. History of noncompliance:	0%	\$4,240.00	-
14a. Unique factors:	0%	\$4,240.00	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			\$4,240.00

Justification for Degree of Cooperation/ Noncooper **no adjustmer** No adjustment was made.
 Justification for Degree of Willfulness or Negligence **no adjustmer** No adjustment was made.
 Justification for History of Noncompliance: **no adjustmer** No adjustment was made.
 Justification for Unique Factors: **no adjustmer** No adjustment was made.

Calculations for Gravity Based Components (GBC) with Inflation Adjustments:

16. Environmental Sensitivity: **High**
17. Environmental Sensitivity Multiplier (ESM): **2**

Justification for Environmental Sensitivity Multiplier: Overlies NJ Coastal Plain Sole Source Aquifer w/ many PWS wells within 1 mile

18. Days of Noncompliance Multiplier (DNM): **1**

	Start	End	Days	DNM
18a.	10/5/2012	12/4/2012	61	1

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
19a.	10/5/2012	12/4/2012	\$4,240.00	2	1	\$ 8,480.00

20. Total Gravity-Based Component = **\$ 8,480.00**

21. Economic Benefit Component (from line 8): **\$ 55.00**

22. Gravity-Based Component (from line 20): **\$ 8,480.00**

23. Initial Penalty Target Figure: (line 21 plus line 22): **\$ 8,535.00**

Site: Middlesex County Area 3 Garage, 750 Jernee Mill Road, Sayerville, NJ
 Violation: Count 5d: §280.44(a) - Document performance claims (fourth occurrence)

- 1. Days of noncompliance: 4-Dec-13 12-Dec-13
- 2. Number of facilities, tanks or pipes: 2
- 3. Total number of days: 9

Part 2 - Economic Benefit Component (See BEN computer model v. 5.3):

- 4. One Time Capital & Time Costs: \$ -
- 5. Delay Capital & Avoided Costs: \$ -
- 6. Avoided Annually Recurring Costs: \$ 7.00
- 7. Initial Economic Benefit (4-5+6): \$ 7.00
- 8. Final Economic Benefit at Penalty Payment Date: \$ 8.00

Part 3 - Matrix Value For The Gravity-Based Component:

9. Matrix Value (MV): 1,500

Inflation Adjustment Rules:

	Value	Start Date	End Date	Inflation	Value+Inflation Round To	Matrix	Total
10a.	1,500	12/4/2013	12/12/2013	1.4163	\$ 2,124.45	10 \$ 2,120.00	\$ 4,240.00

Note: Inflation adjustments are defined as:
 a. 9.83% increase effective Jan 13,2009

Potential for Harm: Major Extent of Deviation: Major

Justifications for Potential for Harm and Extent of Deviation: See OSWER Directive 9610.12, Appendix A.

Part 4 - Violator-Specific Adjustments To Matrix Value:

	% Change	Matrix Value	Total Dollar Adjustment
11a. Degree of cooperation or noncooperation:	0%	\$4,240.00	-
12a. Degree of willfulness or negligence:	0%	\$4,240.00	-
13a. History of noncompliance:	0%	\$4,240.00	-
14a. Unique factors:	0%	\$4,240.00	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			\$4,240.00

Justification for Degree of Cooperation/ Noncooper **no adjustmer** No adjustment was made.
 Justification for Degree of Willfulness or Negligence **no adjustmer** No adjustment was made.
 Justification for History of Noncompliance: **no adjustmer** No adjustment was made.
 Justification for Unique Factors: **no adjustmer** No adjustment was made.

Calculations for Gravity Based Components (GBC) with Inflation Adjustments:

6. Environmental Sensitivity: **High**
 7. Environmental Sensitivity Multiplier (ESM): **2**
 Justification for Environmental Sensitivity Multiplier: **Overlies NJ Coastal Plain Sole Source Aquifer w/many PWS wells within 1 mile**

8. Days of Noncompliance Multiplier (DNM): **1**

	Start	End	Days	DNM
8a.	12/4/2013	12/12/2013	9	1

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
9a.	12/4/2013	12/12/2013	\$4,240.00	2	1	\$ 8,480.00

10. Total Gravity-Based Component = **\$ 8,480.00**

11. Economic Benefit Component (from line 8): **\$ 8.00**

12. Gravity-Based Component (from line 20): **\$ 8,480.00**

13. Initial Penalty Target Figure: (line 21 plus line 22): **\$ 8,488.00**

Site: **Middlesex County Area 3 Garage, 750 Jernee Mill Road, Sayerville, NJ**
 Violation: **Count 6: §280.45 - Records of monitoring**

- 1. Days of noncompliance: **19-Nov-12 9-Jun-14**
- 2. Number of facilities, tanks or pipes: **1**
- 3. Total number of days: **568**

Part 2 - Economic Benefit Component (See BEN computer model v. 5.3):

- 4. One Time Capital & Time Costs: **\$ -**
- 5. Delay Capital & Avoided Costs: **\$ -**
- 6. Avoided Annually Recurring Costs: **\$ 178.00**
- 7. Initial Economic Benefit (4-5+6): **\$ 178.00**
- 8. Final Economic Benefit at Penalty Payment Date: **\$ 196.00**

Part 3 - Matrix Value For The Gravity-Based Component:

- 9. Matrix Value (MV): **1,500**

Inflation Adjustment Rules:

	Value	Start Date	End Date	Inflation	Value+Inflation Round To		Matrix	Total
10a.	1,500	11/19/2012	6/9/2014	1.4163	\$ 2,124.45	10	\$ 2,120.00	\$ 2,120.00

Note: Inflation adjustments are defined as:

- a. **9.83% increase effective Jan 13,2009**

Potential for Harm: **Major** Extent of Deviation: **Major**

Justifications for Potential for Harm and Extent of Deviation: **See OSWER Directive 9610.12, Appendix A.**

Part 4 - Violator-Specific Adjustments To Matrix Value:

	% Change	Matrix Value	Total Dollar Adjustment
11a. Degree of cooperation or noncooperation:	0%	\$2,120.00	-
12a. Degree of willfulness or negligence:	0%	\$2,120.00	-
13a. History of noncompliance:	0%	\$2,120.00	-
14a. Unique factors:	0%	\$2,120.00	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			\$2,120.00

Justification for Degree of Cooperation/ Noncooper **no adjustmer** No adjustment was made.

Justification for Degree of Willfulness or Negligence: **no adjustmer** No adjustment was made.

Justification for History of Noncompliance: **no adjustmer** No adjustment was made.

Justification for Unique Factors: **no adjustmer** No adjustment was made.

Calculations for Gravity Based Components (GBC) with Inflation Adjustments:

6. Environmental Sensitivity: **High**
 7. Environmental Sensitivity Multiplier (ESM): **2**

Justification for Environmental Sensitivity Multiplier: **Overlies NJ Coastal Plain Sole Source Aquifer w/ many PWS wells within 1 mile**

8. Days of Noncompliance Multiplier (DNM): **3.5**
 8a.

Start	End	Days	DNM
11/19/2012	6/9/2014	568	3.5

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
9a.	11/19/2012	6/9/2014	\$2,120.00	2	3.5	\$ 14,840.00

10. Total Gravity-Based Component = **\$ 14,840.00**

11. Economic Benefit Component (from line 8): **\$ 196.00**

12. Gravity-Based Component (from line 20): **\$ 14,840.00**

13. Initial Penalty Target Figure: (line 21 plus line 22): **\$ 15,036.00**