



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

UPS

December 6, 2012

J. Steven Hunter, Esq.
Steven Hunter Associates, L.C.
209 North Court Street
Lewisburg, WV 24901-1138

Re: Consent Agreement and Final Order
In re Reynolds Oil Company, Incorporated., Docket No. RCRA-03-2012-016

Dear Mr. Hunter:

Enclosed please find the a copy of the original Consent Agreement signed by the parties and the Final Order signed by the Regional Judicial Officer ("CAFO") that were filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22.

Also enclosed is a copy of the transmittal memo sent with the CAFO to the Regional Judicial Officer.

Sincerely,


Louis F. Ramalho
Sr. Assistant Regional Counsel

cc: Honorable Barbara A. Gunning
Administrative Law Judge

Enclosures

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

SUBJECT: Reynolds Oil Company, Incorporated
EPA Docket No.: RCRA-03-2012-0163
Consent Agreement and Final Order

FROM: Marcia Mulkey
Regional Counsel (3RC00)

Abraham Ferdas, Director
Land and Chemicals Division (3HS00)

TO: Renée Sarajian
Regional Judicial Officer (3RC00)

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TRANSMITTAL MEMORANDUM

This Memorandum recommends that you sign the enclosed Consent Agreement and Final Order, which concludes EPA’s administrative penalty action filed on May 14, 2012 against Reynolds Oil Company, Incorporated (“Respondent”). Attached please find the Administrative Complaint, Compliance Order, and Notice of Opportunity for a Hearing.

The attached Consent Agreement (“CA”) was entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“EPA” or “Complainant”), and “Respondent” pursuant to Section 9006 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. § 6991e, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), 40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.18(b)(2) and (3).

This CA and the Final Order (“FO”) resolve violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and the State of West Virginia’s federally authorized underground storage tank program with respect to the underground storage tanks (“USTs”) at Respondent’s facilities located at US Route 60, Rupert West Virginia, and 908 Main Street, Rainelle, West Virginia (the “Facilities”).

EPA has determined that an appropriate civil penalty to settle this matter against the Respondent is \$0 and the implementation of the compliance tasks set forth in the CA. The aforesaid settlement amount was based upon Complainant’s consideration of a number of factors, including, but not limited to, the statutory factors of the seriousness of Respondent’s violations and any good faith efforts by Respondent to comply with all applicable requirements as provided in RCRA Section 9006(c), 42 U.S.C. § 6991e(c), and with EPA’s Penalty Guidance for Violations of UST Regulations (“UST Guidance”) dated November 4, 1990.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

We recommend that you sign the attached Final Order. After you have executed the Final Order, please return all of the documents to the Office of Regional Counsel for further processing

CC: J. Steven Hunter, Esq.
Steven Hunter Associates, L.C.
209 North Court Street
Lewisburg, WV 24901-1138

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

IN THE MATTER OF:

**Reynolds Oil Company, Incorporated
741 North Jefferson Street
Lewisburg, West Virginia 24901**

Respondent,

**Handy Place
US Route 60
Rupert, WV 25984**

**K & S Mini Mart
908 Main Street
Rainelle, WV 25962**

Facilities.

Consent Agreement and Final Order

Docket No.: RCRA-03-2012-0163

**Proceeding under Section 9006 of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6991e**

**REGIONAL HEARING OFFICE
EPA REGION III, PHILADELPHIA**

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CONSENT AGREEMENT

On May 14, 2012, the Director for Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“Complainant” or “EPA”) issued an Administrative Complaint, Compliance Order and Notice of Opportunity for Hearing (“the Complaint”) against Reynolds Oil Company, Incorporated (“Respondent”) pursuant to Sections 9006 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6991e, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), 40 C.F.R. Part 22.

This Consent Agreement and Final Order (collectively “CA/FO”), resolve violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and the State of West Virginia’s federally authorized underground storage tank program by Respondent in connection with the underground storage tanks at Respondent’s facilities located at located at US Route 60, Rupert, Greenbrier County, West Virginia (hereinafter “Handy Place”) and 908 Main Street, Rainelle, Greenbrier County, West Virginia (hereinafter “K & S Mini Mart”) (collectively the “Facilities”).

I. GENERAL PROVISIONS

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in the Complaint and this CA/FO.
2. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in the Complaint, except as provided in Paragraph 1, above.

3. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order or the enforcement of the CA/FO.
4. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in the Complaint and in this Consent Agreement, and any right to appeal the accompanying Final Order.
5. Respondent consent to the issuance of this CA/FO, and agree to comply with its terms and conditions.
6. Respondent shall bear its own costs and attorney's fees.
7. The person signing this Consent Agreement on behalf of Respondent certifies to EPA by his or her signature herein that that Respondent is in compliance with the provisions of RCRA, Subtitle I, 42 U.S.C. §§ 6991-6991m, and the State of West Virginia's federally authorized underground storage tank program set forth at WVUSTR Section 33-30-2.2.1 at the Facilities referenced herein.
8. The provisions of this CA/FO shall be binding upon Respondent, and its officers, directors, employees, successors and assigns.
9. This CA/FO shall not relieve Respondent of its obligations to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor does this CA/FO constitute a waiver, suspension or modification of the requirements of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, or any regulations promulgated thereunder.
10. Complainant shall have the right to institute further actions to recover appropriate relief if Complainant obtains evidence that the information provided or representations made by Respondent to EPA regarding matters at issue in the CA/FO are false or, in any material respect, inaccurate. Respondent is aware that the submission of false or misleading information to the United States government may subject Respondent to separate civil or criminal liability.
11. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.
12. EPA has given the State of West Virginia prior notice of the issuance of this CA/FO in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

II. FACTUAL ALLEGATIONS AND LEGAL CONCLUSIONS

13. EPA's Findings of Fact and Conclusions of Law set forth in the Complaint are hereby incorporated into this CA as if set forth fully herein.

III. COMPLIANCE TASKS

14. Pursuant to the authority of Section 9006 of RCRA, 42 U.S.C. § 6991e, Respondent must immediately upon the effective date of this CAFO:
- A. Continue to comply with the release detection requirements of WVUSTR Section 33-30-2.2.1, which incorporates by reference 40 C.F.R. § 280.40(a) and (c), for all UST systems located at the Facilities or close such UST systems in accordance with WVUSTR Section 33-30-2.2.1, which incorporates by reference 40 C.F.R. § 280.71.
 - B. Continue to maintain the corrosion protection systems for the USTs at the Facilities and operate and maintain such systems in accordance with WVUSTR Section 33-30-2.2.1, which incorporates by reference 40 C.F.R. § 280.31, or close such UST systems in accordance with WVUSTR Section 33-30-2.2.1, which incorporates by reference 40 C.F.R. § 280.71.
 - C. Continue to maintain financial responsibility in accordance with WVUSTR Section 33-30-2.2., which incorporates by reference 40 C.F.R. §§ 280.90 through 280.112, for all UST systems located at the Facilities.
 - D. Continue in compliance with the provisions of RCRA, Subtitle I, 42 U.S.C. §§ 6991-6991m, and the State of West Virginia's federally authorized underground storage tank program set forth at WVUSTR Section 33-30-2.2.1.

15. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to these Compliance Tasks which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement of these Compliance Tasks must be certified by a responsible corporate officer of Respondent.

16. The certification required above must be in the following form:

I certify that the information contained in or accompanying this [type of submission] is true, accurate, and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: _____

Name: _____

Title: _____

17. All documents and reports to be submitted pursuant to this CA/FO must be sent to the following persons:

- A. Documents to be submitted to EPA must be sent via overnight delivery, signature required, to:

Louis F. Ramalho
Sr. Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC50)
1650 Arch Street
Philadelphia, PA 19103-2029

Clark Conover
USEPA Wheeling Operations Office
Office of Land Enforcement
303 Methodist Building
11th and Chapline Streets
Mail Code: 3LC70
Wheeling, WV 26003

- B. Documents required to be submitted to WVDEP, and one copy of all documents required to be submitted to EPA, must be sent by overnight delivery or regular mail to:

Ruth M. Porter, Program Manager
West Virginia Department of Environmental Protection
601 57th Street SE
Charleston, WV 25304

18. Respondent is hereby notified that failure to comply with any of the terms of this CA/FO may subject it to imposition of a civil penalty of up to \$37,500 for each day of continued noncompliance, pursuant to Section 9006(a)(3) of RCRA, 42 U.S.C. §6991e(a)(3).
19. The term “days” as used herein means calendar days unless specified otherwise.

IV. CIVIL PENALTY

20. In settlement of Complainant’s claims for civil penalties for the violations alleged in this CA, the parties agree to a civil penalty assessment in the amount of **zero dollars (\$0)**.
21. The aforesaid settlement amount is based upon Complainant’s consideration of a number of factors, including the statutory factors provided in RCRA Section 9006(c) - (e), 42 U.S.C. § 6991e(c) - (e), and in accordance with EPA’s Penalty Guidance for Violations of UST Regulations (“UST Guidance”) dated November 4, 1990. EPA has also considered Respondents’ ability to pay a penalty, based on an analysis of financial documents Respondents disclosed during settlement negotiations.

V. FULL AND FINAL SATISFACTION

22. This CA/FO constitutes a settlement by EPA of its claims for civil penalties pursuant to 9006(a) of RCRA, 42 U.S.C. § 6991e(a), for the violations alleged in this Consent Agreement.

VI. RESERVATION OF RIGHTS

23. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial

endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CA/FO, following its filing with the Regional Hearing Clerk.

VII. OTHER APPLICABLE LAWS

24. Nothing in this CA/FO shall relieve Respondent of any duties otherwise imposed on it by applicable federal, state or local law or regulations.

VIII. AUTHORITY TO BIND THE PARTIES

25. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and bind the Respondent hereto.

IX. ENTIRE AGREEMENT

26. This Consent Agreement and the attached Final Order constitute the entire agreement and understanding between EPA and Respondent concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between EPA and Respondent other than those expressed in this Consent Agreement and the attached Final Order.

X. EFFECTIVE DATE

27. This CA/FO shall become effective upon filing with the Regional Hearing Clerk.

XI. SIGNATURES

For Respondent:

Reynolds Oil Company, Incorporated

Date 11-26-12

By: 
Angela F. Reynolds
Secretary/Treasurer

For Complainant:

U.S. Environmental Protection Agency, Region III

Date _____

Louis F. Ramalho
Sr. Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

Date _____

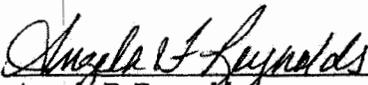
Abraham Ferdas
Director, Land and Chemicals Division
U.S. Environmental Protection Agency, Region III

XI. SIGNATURES

For Respondent:

Reynolds Oil Company, Incorporated

Date 11-26-12

By: 
Angela F. Reynolds
Secretary/Treasurer

For Complainant:

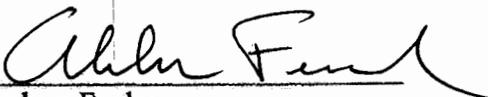
U.S. Environmental Protection Agency, Region III

Date 12/6/12


Louis F. Ramalho
Sr. Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

Date 11/28/12


Abraham Ferdas
Director, Land and Chemicals Division
U.S. Environmental Protection Agency, Region III

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

IN THE MATTER OF:

**Reynolds Oil Company, Incorporated
741 North Jefferson Street
Lewisburg, West Virginia 24901**

Respondent,

**Handy Place
US Route 60
Rupert, WV 25984**

**K & S Mini Mart
908 Main Street
Rainelle, WV 25962**

Facilities.

Consent Agreement and Final Order

Docket No.: RCRA-03-2012-0163

**Proceeding under Sections 9006 of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6991e**

FINAL ORDER

Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Reynolds Oil Company, Incorporated, have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms and conditions of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW, THEREFORE, pursuant to Section 22.18(b)(3) of the Consolidated Rules of Practice and Section 9006(c) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6991e(c) ("RCRA"), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section 9006(c) and (d) of RCRA, 42 U.S.C. § 6991e(c) and (d), IT IS HEREBY ORDERED that Respondent comply with the terms and conditions of the Consent Agreement.

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The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date 12/6/12


Renée Sarajian
Regional Judicial Officer
U.S. EPA, Region III

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

IN THE MATTER OF:

Reynolds Oil Company, Incorporated
741 North Jefferson Street
Lewisburg, WV 24901

RESPONDENT.

Consent Agreement and Final Order

Proceeding under Sections 409 and 16(a) of
the Toxic Substances Control Act, 15 U.S.C.
§§ 2689 and 2615(a)

Docket No.: RCRA-03-2012-0163

CERTIFICATE OF SERVICE

I certify that on the date provided below, I hand-delivered the original and one copy of the Consent Agreement and Final Order in the case captioned *In re*, Docket No. RCRA-03-2012-0163 to Lydia Guy, Regional Hearing Clerk, U.S. EPA, Region 3, 1650 Arch St, Philadelphia, PA 19134, and sent one copy of the signed original of the document by commercial overnight mail to:

J. Steven Hunter, Esq.
Steven Hunter Associates, L.C.
209 North Court Street
Lewisburg, WV 24901-1138
Counsel for Respondent

Dated: 12/6/12



Louis F. Ramalho
Sr. Assistant Regional Counsel
U.S. EPA Region 3

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