

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

IN THE MATTER OF:

Marshall Brothers, Inc., E & V Energy  
Corp., Erie Enterprises, LLC and Marshall  
Family Associates, LLC

Respondents

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

COMPLAINT, COMPLIANCE ORDER  
AND  
NOTICE OF OPPORTUNITY FOR HEARING

DOCKET NO. RCRA-02-2016-7503

**COMPLAINT**

1. This is a civil administrative proceeding instituted pursuant to Section 9006 of the Solid Waste Disposal Act, as amended, 42 U.S.C. § 6901 et seq. (the "Act").
2. Complainant in this proceeding, Dore LaPosta, Director, Division of Enforcement and Compliance Assistance of the United States Environmental Protection Agency, Region 2 ("EPA"), has been duly delegated the authority to institute this action.
3. Respondents are Marshall Brothers, Inc., E & V Energy Corp., Eric Enterprises, LLC and Marshall Family Associates, LLC (hereinafter "Respondents").
4. Each Respondent is a "person" within the meaning of Section 9001(5) of the Act, 42 U.S.C. § 6991(5), and 40 C.F.R. § 280.12.
5. Each Respondent was and is the "owner" and/or "operator" of at least one or more "underground storage tanks" ("USTs") or "UST system," as those terms are defined in Section 9001 of the Act, 42 U.S.C. §6991, and 40 C.F.R. §280.12, that, when considered together, are located at (at least) sixteen (16) different facilities in the State of New York.

**BACKGROUND-REGULATIONS**

6. 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.

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7. Pursuant to Sections 2002, 9002, and 9003 of the Act, 42 U.S.C. §§ 6912, 6991a, and 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 ones related to financial responsibility, release detection, record-keeping, upgrade requirements, and temporary and permanent closure.
8. 40 C.F.R. § 280.12 defines an underground storage tank or 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.
9. 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 Resource Conservation and Recovery Act, as amended (“RCRA”).
10. Pursuant to 40 C.F.R. Section 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.
11. 40 C.F.R. Section 289.90 (a) states that subpart H (Financial Responsibility) applies to owners and operators of petroleum UST systems.
12. 40 C.F.R. Section 280.90 (b) states that owners and operators of petroleum UST systems are subject to the requirements of subpart H (Financial Responsibility) if they are in operation on or after the date for compliance established in 40 C.F.R. Section 280.91.
13. 40 C.F.R. Section 280.90(e) states that if the owner and operator of a petroleum UST are separate persons, only one person is required to demonstrate financial responsibility; however, both parties are liable in event of noncompliance.
14. 40 C.F.R. Section 280.91(c) states that owners of between 13-99 petroleum USTs at more than one facility were required to comply with financial responsibility requirements by April 1991.
15. Pursuant to 40 C.F.R. Section 280.91(d), owners of less than 13 petroleum USTs were required to comply with financial responsibility requirements by December 31, 1993.
16. Pursuant to 40 C.F.R. Section 280.93, owners or operators of USTs are required to demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of USTs that they own or operate.

17. Pursuant to 40 C.F.R. Section 280.111, owners or operators of USTs are required to maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility for an UST and must maintain such evidence at the UST site or the owner's or operator's place of work.
18. Pursuant to 40 C.F.R. Section 280.113, owners or operators of USTs are no longer required to maintain financial responsibility after the tank has been properly closed or, if corrective action is required, until after corrective action is completed and the tank has been properly closed.
19. Pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, on or about September 11, 2015 an authorized representative of EPA inspected at least six (6) facilities which have underground storage tanks ("USTs") in the State of New York to determine their compliance with the Act and 40 C.F.R. Part 280.
20. Pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, and 40 C.F.R. Section 280.34, EPA sent a RCRA § 9005 Information Request Letter ("IRL"), dated November 5, 2015, to Marshall Brothers, Inc. and E & V Energy Corporation, in order to determine their compliance with the Act and 40 C.F.R. Part 280
21. A response to EPA's IRL was due on December 4, 2015, within thirty (30) calendar days from the date of the November 5, 2015 IRL.
22. EPA received an IRL response, dated December 4, 2015. The cover letter that accompanied the IRL response as well as the Certification of Answers (Enclosure III) were both signed by "Case A. Marshall, Vice President, Marshall Brothers, Inc."
23. The cover letter of the December 4, 2015 IRL response was on letterhead of E & V Energy Co., and included the E & V Energy Co. logo.

#### **OWNERSHIP AND OPERATION OF UST SYSTEMS AT SIXTEEN FACILITIES**

24. The December 4, 2015 IRL response provided information on "UST Owner Operator" for the following four entities: Marshall Family Associates, LLC, Erie Enterprises, LLC, Marshall Brothers, Inc., and E & V Energy Corp. (the Respondents).
25. The December 4, 2015 IRL response states that all the entities share the following common address: 2737 Erie Drive, P.O. Box 1226, Weedsport, NY 13166 as well as the same telephone number.
26. The December 4, 2015 IRL response indicates that each of the four Respondents shares at least two common "owners/officers James Marshall, Case Marshall."
27. The December 4, 2015 IRL response identifies Marshall Family Associates, LLC as the "property owner" for the following five facilities: Genoa facility (Petroleum Bulk Storage

(PBS) Registration # (hereinafter "PBS #") 7-161861), Pit Stop, 1021 NY 34, Genoa, NY 13071; Port Byron facility (PBS# 7-600878) Pit Stop, 14 Rochester Street, Port Byron, NY 13140; Cortland facility (PBS# 7-990116) Pit Stop Auto/Truck Plaza, 3742 US Route 11, Cortland, NY 13045; Geneva facility (PBS# 8-065536) The Pit Stop, 14 Exchange Street, Geneva, NY 14456; and the Newark facility (PBS# 8-144185) Pit Stop, 608 East Union Street, Newark, NY 14513.

28. The New York State Department of Environmental Conservation ("NYSDEC") PBS Application for the tanks at the Genoa facility was signed by Randall Coe on December 13, 2001 and identified "Marshall Bros. Inc." as "Owner." The cover letter accompanying the transmittal of the PBS Application was signed by Randy Coe on "E & V Energy Co." letterhead.
29. The most recent NYSDEC PBS Registration Certificate for tanks at the Genoa facility was signed by Case Marshall, Vice President, on March 4, 2015.
30. The NYSDEC PBS Registration Certificate for the tanks at the Genoa facility states: "Tank Owner Name: Same as Property Owner."
31. The NYSDEC PBS Registration Certificate for the tanks at the Genoa facility identifies Marshall Bros as daily on-site operator.
32. Marshall Family Associates, LLC has been and, upon information and belief, continues to be the owner of the USTs at the Genoa facility.
33. Marshall Brothers, Inc. has been and, upon information and belief, continues to be the operator of the USTs at the Genoa facility.
34. The most recent NYSDEC PBS Application for the tanks at the Port Byron facility was signed by Case A. Marshall, Vice President, on May 7, 2012 and identifies Marshall Bros. Inc. as Owner.
35. The first NYSDEC PBS Application for the tanks at the Port Byron facility was signed by Randall Coe on May 20, 2002 and identified "Marshall Bros. Inc." as Owner. The cover letter accompanying the transmittal of the PBS Application was signed by Randy Coe on E & V Energy Co. letterhead.
36. The most recent NYSDEC PBS Registration Certificates for the tanks at the Port Byron facility were each signed by Case A. Marshall, Vice President, on January 7, 2015 and November 25, 2014 and identified Marshall Bros Inc. as Facility Owner and daily on-site operator.
37. Marshall Bros. Inc. has been and, upon information and belief, continues to be the owner and operator of the USTs at the Port Byron facility.

38. The most recent NYSDEC PBS Application for the tanks at the Cortland facility was signed by T. James Marshall on December 4, 2014 and identified "Marshall Bros. Inc." as Owner.
39. The first NYSDEC PBS Application for the tanks at the Cortland facility was signed by Theodore J. Marshall, President, on December 14, 1998, and identified "Marshall Brothers Inc." as Owner.
40. The NYSDEC PBS Registration Certificate for the tanks at the Cortland facility was signed by T. James Marshall on December 4, 2014 and identified "Marshall Bros. Inc." as Owner and a representative of E & V Energy Co. as daily on-site operator.
41. Marshall Bros. Inc. has been and, upon information and belief, continues to be the owner of the USTs at the Cortland facility.
42. E & V Energy Co. has been and, upon information and belief, continues to be the operator of the USTs at the Cortland facility.
43. The NYSDEC PBS Application for the tanks at the Geneva facility was signed by Case Marshall, Vice President, on January 6, 2015 and identified "Marshall Family Associates" as Owner.
44. The most recent NYSDEC PBS Registration Certificate for the tanks at the Geneva facility was signed by Case A. Marshall, Vice President, on January 20, 2015.
45. The January 2015 NYSDEC PBS Registration Certificate for tanks at the Geneva facility states "Tank Owner Name: Same as Property Owner."
46. The January 2015 NYSDEC PBS Registration Certificate for tanks at the Geneva facility identifies "Marshall Bros. Inc." as daily on-site operator.
47. Marshall Family Associates, LLC has been and, upon information and belief, continues to be the owner of the USTs at the Geneva facility.
48. Marshall Brothers, Inc. has been and, upon information and belief, continues to be the operator of the USTs at the Geneva facility.
49. The first NYSDEC PBS Application for the tanks at the Newark facility was signed by Randall Coe on March 4, 2002 and identified "Marshall Bros. Inc." as Owner.
50. A later NYSDEC PBS Application for the tanks at the Newark facility was signed by Case A. Marshall on December 12, 2011 and identified "Marshall Bros. Inc." as Owner.
51. The most recent NYSDEC PBS Registration Certificate for the tanks at the Newark facility was signed by Case A. Marshall on April 15, 2015 and identifies Marshall Bros. Inc. as the Facility Owner and daily on-site operator.

52. Marshall Brothers, Inc. has been and, upon information and belief, continues to be the owner and operator of the USTs at the Newark facility.
53. The December 4, 2015 IRL response identifies Marshall Brothers, Inc. as the “property owner” for the Weedsport facility (PBS# 7-162019) The Pit Stop, 9036 N. Seneca St., Weedsport, NY 13166. .
54. The NYSDEC PBS Application for the tanks at the Weedsport facility was signed by Case Marshall, Vice President of Marshall Brothers Inc. on May 7, 2012 and identified “Marshall Bros. Inc.” as owner and daily on-site operator.
55. The NYSDEC PBS Registration Certificate for the tanks at the Weedsport facility was signed by Case A. Marshall on November 25, 2014 and identified “Marshall Bros Inc.” as Facility Owner and “Marshall Bros.” as on-site operator.
56. Marshall Brothers Inc. has been and, upon information and belief, continues to be the owner and operator of the USTs at the Weedsport facility
57. The December 4, 2015 IRL response identifies E & V Energy Co. as the “property owner” for the following three facilities: North Rose facility (PBS# 8-076880) Pit Stop, 51 West Main Street Rte 414, North Rose, NY 14516; Sodus Point facility (PBS# 8-076899) Pit Stop, 8463 Bay Street, Sodus Point, NY 14555 and Wolcott facility (PBS# 8-463892) Pit Stop, 11977 West Main Street, Wolcott, NY 14590.
58. The<sup>[MTG]</sup> NYSDEC PBS Application for the tanks at the North Rose facility was signed by Case Marshall, Vice President of Marshall Bros. Inc. on September 12, 2011 and identifies “E & V Energy Corporation” as the Owner and “Marshall Brothers Inc.” as the daily on-site operator.
59. The most recent NYSDEC PBS Registration Certificate for the tanks at the North Rose facility was signed by Case A. Marshall, Vice President, on April 15, 2015 and identifies “E & V Energy Corporation” as Facility Owner and “Marshall Brothers, Inc.” as daily on-site operator.
60. The prior NYSDEC PBS Registration Certificate for the tanks at the North Rose facility was signed by Case A. Marshall on November 18, 2011 and identifies “E & V Energy Corporation” as the Owner and “Marshall Brothers, Inc.” as the on-site operator.
61. E & V Energy Corporation has been and, upon information and belief, continues to be the owner of the USTs at the North Rose facility.
62. Marshall Brothers, Inc. has been and, upon information and belief, continues to be the operator of the USTs at the North Rose facility.
63. The NYSDEC PBS Application for the tanks at the Sodus Point facility was signed by Case Marshall, Vice President of Marshall Brothers Inc. on October 19, 2011 and

identified "E & V Energy Corporation" as Owner and "Marshall Brothers, Inc." as on-site operator.

64. The NYSDEC PBS Registration Certificate for the tanks at the Sodus Point facility was signed by Case A. Marshall, Vice President, on October 14, 2013 and identifies "E & V Energy Corporation" as Facility owner and "Marshall Brothers Inc." as daily on-site operator.
65. E & V Energy Corp has been and, upon information and belief, continues to be the owner of the USTs at the Sodus Point facility.
66. Marshall Brothers, Inc. has been and, upon information and belief, continues to be, the operator of the USTs at the Sodus Point facility.
67. Application for the Wolcott facility was signed by Case A. Marshall, Vice President of Marshall Brothers, Inc. on November 20, 2013 and identified "E & V Energy Corporation" as the "Contact Person Company Name" and "Marshall Brothers" as the daily on-site operator.
68. The NYSDEC PBS Registration Certificate for the tanks at the Wolcott facility was signed by Case A. Marshall, Vice President, on April 15, 2015 and identified "E & V Energy Corporation" as Facility Owner and "Marshall Brothers" as daily on-site operator.
69. E & V Energy Corporation has been and, upon information and belief, continues to be the owner of the USTs at the Wolcott facility.
70. Marshall Brothers, Inc. has been and, upon information and belief, continues to be the operator of the USTs at the Wolcott facility.
71. The December 4, 2015 IRL response identifies Erie Enterprises LLC as the "property owner" for the following two facilities: Oswego facility (PBS# 7-181021) Pit Stop, 181 East First Street, Oswego, NY 13126; and Martville facility (PBS# 7-464864) North Victory Pit Stop, 15057 NY Route 104, Martville, NY 13111.
72. The most recent NYSDEC PBS Application for the tanks at the Oswego facility was signed by Case A. Marshall, Vice President, on January 31, 2014 and identifies "Erie Enterprises, LLC" as the owner and "Marshall Bros. Inc." as the daily on-site operator.
73. The first NYSDEC PBS Application for the tanks at the Oswego facility was signed by Case A. Marshall, Vice President, Marshall Brothers, Inc. on January 26, 2004 and identified "E & V Energy Co." as the Owner.
74. The NYSDEC PBS Registration Certificate for the tanks at the Oswego facility was signed by Case A. Marshall on August 26, 2015.

75. The NYSDEC PBS Registration Certificate for the tanks at the Oswego facility states: "Tank Owner Name: Same as Property Owner."
76. The NYSDEC PBS Registration Certificate for the tanks at the Oswego facility identifies "Marshall Bros Inc." as the daily on-site operator.
77. The Facility Information Report, dated June 11, 2010, for the tanks at the Oswego facility identifies "E & V Energy Co." as the owner and "Marshall Bros. Inc." as the onsite operator.
78. Erie Enterprises LLC and E & V Energy Co. have been and, upon information and belief, continue to be the owners of the USTs at the Oswego facility.
79. Marshall Brothers Inc. has been and, upon information and belief, continues to be the operator of the USTs at the Oswego facility.
80. The NYSDEC PBS Application for the tanks at the Martville facility was signed by Case A. Marshall, Vice President, on January 8, 2014 and identifies "Erie Enterprises, LLC" as the "Facility (Property) Owner (from Deed)."
81. The most recent NYSDEC PBS Registration Certificate for the tanks at the Martville facility was signed by Case A. Marshall, Vice President, on September 17, 2015 and identifies "Erie Enterprises, LLC" as the Facility Owner.
82. The February 12, 2014 NYSDEC PBS Registration Certificate for the tanks at the Martville facility states: "Tank Owner Name: Same as Property Owner."
83. The September 17, 2015 NYSDEC PBS Registration Certificate for the tanks at the Martville facility states: "Tank Owner Name: Same as Property Owner."
84. The NYSDEC PBS Registration Certificate for the tanks at the Martville facility was signed by Case A. Marshall, Vice President, on February 12, 2014 and identifies "Erie Enterprises, LLC" as the Facility Owner and "Marshall Bros. Inc." as the daily on-site operator.
85. A later NYSDEC PBS Registration Certificate, dated September 17, 2015, for the tanks at the Martville facility identifies "Marshall Bros. Inc." as daily on-site operator.
86. Erie Enterprises, LLC has been and, upon information and belief, continues to be the owner of the USTs at the Martville facility.
87. Marshall Brothers, Inc. has been and, upon information and belief, continues to be the operator of the USTs at the Martville facility.
88. The most recent NYSDEC PBS Registration Certificate for the tanks at the Ontario facility (PBS #8-080322) Ontario Pit Stop, 2007 Route 104, Ontario, NY 14519, was

signed by Case A. Marshall, Vice President, on April 15, 2015 and identifies “Marshall Brothers, Inc.” as the Facility Owner and “Marshall Brothers” as the daily on-site operator.

89. The NYSDEC PBS Facility Information Report, dated June 11, 2010, for the tanks at the Ontario facility identifies “Marshall Brothers, Inc.” as the Owner and “Marshall Brothers” as the on-site operator.
90. Marshall Brothers, Inc. has been and, upon information and belief, continues to be the owner and operator of the USTs at the Ontario facility.
91. The most recent NYSDEC PBS Registration Certificate for the Red Creek facility (PBS# 8-076902) Pit Stop, 14016 Canada Street, Red Creek, NY 13143, was signed by Case A. Marshall, Vice President, on April 15, 2015 and identifies “E & V Energy Corporation” as the Facility Owner and “Marshall Brothers” as the daily on-site operator.
92. The NYSDEC PBS Facility Information Report, dated June 11, 2010, for the tanks at the Red Creek facility identifies “E & V Energy Corp” as the Owner and “Marshall Brothers” as the on-site operator.
93. E & V Energy Corp. has been and, upon information and belief, continues to be the owner of the USTs at the Red Creek facility.
94. Marshall Brothers, Inc. has been and, upon information and belief, continues to be the operator of the USTs at the Red Creek facility.
95. The NYSDEC PBS Facility Information Report, dated June 11, 2010, for the tanks at the Freeway Grocery facility (PBS# 6-135895) (also referred to as the Adams facility), 54 West Church Street, Adams, NY 13605 identifies Erie Enterprises, LLC as the Facility Owner.
96. The NYSDEC Bulk Storage Database Search Details, dated September 15, 2016, identifies Erie Enterprises, LLC as “Facility Owner” and “Mail Contact.”
97. Erie Enterprises, LLC has been and, upon information and belief, continues to be the owner of the USTs at the Adams facility.
98. The NYSDEC Bulk Storage Database Search Details, dated September 15, 2016, for the Elbridge Mini Mart facility (PBS #7-129283) (also known as the Elbridge facility), 101 East Main Street NY 5, Elbridge, NY 13060, identifies “Erie Enterprises, LLC” as the Facility Owner and “E & V Energy Co.” as the Mail Contact.
99. The NYSDEC PBS Facility Information Report, dated June 11, 2010, for the Elbridge facility identifies “E & V Energy Corp” as the Facility Owner and “Case Marshall” as the On-site operator. .

100. Erie Enterprises LLC and E & V Energy Corp. have been and, upon information and belief, continue to be the owners of the USTs at the Elbridge facility.
101. The NYSDEC Bulk Storage Database Search Details Facility Information form, dated September 15, 2016, for the tanks at P.J. Radiator Shop Inc. facility (PBS# 8-600590) (also known as the Ontario Center facility), 1530 Ridge Road, Ontario Center, NY 14520, under "Owner Information," identifies "Marshall Bros. Inc." as the Mail contact.
102. Marshall Brothers, Inc. has been and, upon information and belief, continues to be the owner of the USTs at the Ontario Center facility.

**FAILURE TO COMPLY WITH FINANCIAL RESPONSIBILITY  
REQUIREMENT FOR UST OWNERS AND OPERATORS**

103. Question 23 of EPA's IRL (previously mentioned in paragraph 20 above), states: Provide documentation of compliance with federal regulatory financial responsibility (insurance) requirements (40 C.F.R. Section 280 Subpart H) in case of a release from an UST, including coverage for third party bodily injury.
104. EPA's IRL Instructions and Definitions, item 1, states: "Financial Responsibility information is required to be maintained from the date that a regulated substance(s) is introduced into an UST until it is permanently closed."
105. The Respondents collectively own between 13 and 99 USTs at more than one facility.
106. In the December 4, 2015 IRL response, Marshall Brothers, Inc. and E & V Energy Corporation failed to respond to the request in Question 23 of the IRL, for financial responsibility information regarding third party liability insurance for USTs.
107. Pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, and 40 C, F.R. Section 280.34, EPA sent a Notice of Violation (NOV) and IRL, dated April 13, 2016, to Marshall Brothers, Inc. and E & V Energy Corporation.
108. Respondents Marshall Brothers, Inc. and E & V Energy Corp. submitted an April 18, 2016 response ("the Response") to EPA's NOV.
109. The Response to EPA's NOV was signed by Case A. Marshall, Vice President, Marshall Brothers, Inc. and was typed on letterhead of "E & V Energy Co." and included the E & V Energy Co. logo.
110. The Certification of Answers to Request for Information (Enclosure I) was signed on April 18, 2016 by Case A. Marshall, Vice President, of E & V Energy Corp.
111. The Response to EPA's NOV states: "We left that question [Question 23] blank because we did not have coverage for third party bodily injury for that time frame and therefore

did not have documentation to provide. We have a policy that went into effect on February 10, 2016 (see enclosed).”

112. The Response to EPA’s NOV enclosed a copy of an Insurance Policy with Marshall Brothers, Inc. as the only insured party. This Insurance Policy provides coverage for third party bodily injury for the policy period from February 10, 2016 to February 10, 2017 for the UST systems at the following sixteen facilities:

1. Freeway Grocery (PBS #6-135895)  
54 West Church Street  
Adams, NY 13605 [MT11]  
(Tanks No. 5, 8, 9, 10, 11 and 12)
2. Elbridge Mini Mart (PBS #7-129283)  
101 East Main St NY 5  
Elbridge, NY 13060  
(Tanks No. 1, 2 & 5)
3. Genoa Pit Stop (PBS# 7-161861)  
1021 NY 34  
Genoa, NY 13071  
(Tanks No. 1 A & B, 2 A & B)
4. The Pit Stop (PBS# 7-162019)  
9036 N. Seneca St.  
Weedsport, NY 13166  
(Tanks No. 11, 12, 13 A & B, and 14 A & B)
5. Oswego Pit Stop (PBS# 7-181021)  
181 East First Street  
Oswego, NY 13126  
(Tanks No. 1, 2, 3, 4, 5, 6, 7, 8)
6. North Victory Pit Stop (PBS# 7-464864).  
15057 NY Route 104  
Martville, NY 13111  
(Tank No. 1)
7. Port Byron Pit Stop (PBS# 7-600878)  
14 Rochester ST.  
Port Byron, NY 13140  
(Tanks No. 1, 2 and 3)

8. Pit Stop Auto/Truck Plaza (PBS# 7-990116)  
3742 US Route 11  
Cortland, NY 13045  
(Tanks No. 4, 6 and 7A& B)
9. The Pit Stop (PBS# 8-065536)  
14 Exchange Street  
Geneva, NY 14456  
(Tanks No. 1, 2 & 3)
10. North Rose Pit Stop (PBS# 8-076880)  
51 West Main Street Rte 414  
North Rose, NY 14516  
(Tanks No. 1, 2, and 5)
11. Sodus Point Pit Stop (PBS# 8-076899)  
8463 Bay Street  
Sodus Point, NY 14555  
(Tanks No. 5, 6, 7 & 8)
12. Red Creek Pit Stop (PBS# No. 8-076902)  
14016 Canada Street  
Red Creek, NY 13143  
(Tanks No. 1 & 2)
13. Ontario Pit Stop (PBS# 8-080322)  
2007 Route 104  
Ontario, NY 14519  
(Tanks No. 1, 2 & 3)
14. Newark Pit Stop (PBS# 8-144185)  
608 East Union Street  
Newark, NY 14513  
(Tanks No. 1, 2 & 3)
15. Wolcott Pit Stop (PBS# 8-463892)  
11977 West Main Street  
Wolcott, NY 14590  
(Tanks No. 1, 2, 3 & 4)
16. PJ Radiator Shop Inc. (PBS#8-600590)  
1530 Ridge Road  
Ontario Center, NY 14520  
(Tanks No. 1, 2 & 3)

113. As of the date of the April 18, 2016 response by Respondents Marshall Brothers, Inc. and E & V Energy Co. to EPA's NOV and IRL, they had not demonstrated compliance prior to February 10, 2016 with federal regulatory financial responsibility requirements (40 C.F.R. §280 Subpart H) for the UST systems at the facilities identified in paragraph 112 above, by any of the methods set forth in 40 C.F.R. Sections 280.95 through 280.103.
114. Respondents Marshall Brothers, Inc. and E & V Energy Co. obtained insurance on February 10, 2016 for third party bodily injury for the USTs owned by Marshall Family Associates LLC and Erie Enterprises LLC at the Oswego, Martville, Adams, Elbridge, Genoa and Geneva facilities.
115. Respondents Marshall Brothers, Inc. and E & V Energy Co. acknowledged that prior to February 10, 2016 they did not have insurance coverage for third party bodily injury for the USTs at the sixteen facilities identified in paragraph 112 above, including USTs owned by Marshall Family Associates, LLC and Erie Enterprises, LLC at the Oswego, Martville, Adams, Elbridge, Genoa and Geneva facilities.
116. Prior to February 10, 2016, Respondents Erie Enterprises LLC and Marshall Family Associates, LLC had not demonstrated compliance with federal regulatory financial responsibility requirements (40 C.F.R. Section 280, subpart H) for the UST systems at the Oswego, Martville, Adams, Elbridge, Genoa and Geneva facilities, by any of the methods set forth in 40 CFR Sections 280.95 through 280.103.
117. Respondents' failure, between at least February 10, 2013 and February 10, 2106, to comply with federal regulatory financial responsibility requirements, including coverage for third party bodily injury, constitutes a violation of 40 C.F.R. § 280.93(a).
118. Pursuant to Section 9006(a) and (d) of RCRA, 42 U.S.C. Section 6991e(a) and(d), each of the Respondents are liable for injunctive relief and civil penalties for the financial responsibility violations alleged in the paragraphs above.

### **PROPOSED CIVIL PENALTY**

The proposed civil penalty has been determined in accordance with Section 9006(d)(2)(A) of the Act, 42 U.S.C. § 6991e (d)(2)(A). For purposes of determining the amount of any penalty assessed, Section 9006(c) requires EPA “. . . taking into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements.” Additionally, Section 9006(e)(1)&(2) states that EPA may take into effect “the compliance history of an owner or operator. . .” and “[a]ny other factor that the Administrator considers appropriate.” To develop the proposed penalty in this complaint, the Complainant has taken into account the particular facts and circumstances of this case and used US EPA Penalty Guidance for Violations of UST Requirements (EPA's UST Penalty Policy, dated November 14, 1990), which is available upon request or at this Internet address: <http://www.epa.gov/swerust1/directiv/od961012.htm>. EPA's UST Penalty Policy provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors to particular cases.

Section 9006(d)(2)(A) of the Act, 42 U.S. C. Section 6991e(d)(2)(A) authorizes the assessment of a civil penalty up to \$10,000 for each tank for each day of violation of any requirement or standard promulgated by the Administrator. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through 2015 (“Inflation Adjustment Act”), 28 U.S.C. Section 245, required EPA to adjust its penalties for inflation on a periodic basis. Consistent with this, the penalty amounts in the November 1990 UST Penalty Policy have been amended to reflect adjustments for inflation. The adjustments were made pursuant to the December 29, 2008 document entitled “Amendments to EPA’s Civil Penalty Policies to Implement the 2008 Civil Penalty Monetary Inflation Adjustment Rule (effective January 12, 2009);” guidance entitled “Revision to Adjusted Penalty Policy Matrices on November 16, 2009” was issued on April 6, 2010; the December 6, 2013 document entitled “Amendments to the U.S. Environmental Protection Agency’s Civil Penalties Policies to Account for Inflation (applicable to violations that occurred between December 7, 2013 and November 2, 2015);” and the July 27, 2016 document entitled “Amendments to the U.S. Environmental Protection Agency’s Civil Penalty Policies to Account for Inflation (applicable to violations that occurred after November 2, 2015).”

Pursuant to the Inflation Adjustment Act, the maximum statutory civil penalty under Section 9006(d)(2) of RCRA, 42 U.S.C. Section 6991e(d)(2), is \$16,000 per day for each violation occurring after January 12, 2009 through November 2, 2015; and \$22,587 per day for each violation occurring after November 2, 2015. See 40 C.F.R. Part 19 and 81 Fed Reg 42,091 (July 1, 2016).

A penalty calculation worksheet to support the penalty figure for each violation cited in this Complaint are included in Attachment 1, below.

The Complainant proposes, subject to the receipt and evaluation of further relevant information, that the Respondents be assessed the following civil penalty for the violations alleged in the Complaint. See chart below (Note that the facilities’ full address is specified in paragraph 112 above):

The penalty can be (1) paid in total jointly or (2) paid according to each Respondent’s legal responsibility for the USTs at each facility, provided the total amount due is paid.

**Total Proposed Penalty: \$147,066.75**

Facility/Violation Number	UST(s) at issue	40 CFR Part 280 requirement violated	Violation summary failure to:	Proposed penalty for count
Adams Facility Grocery /1	6 USTs	280.93(a)	Financial Responsibility	\$ 7,899.16
Elbridge Facility/2	3 USTs	280.93(a)	Financial Responsibility	\$ 7,899.16

Genoa Facility/3	2 USTs	280.93(a)	Financial Responsibility	\$13,069.20
Weedsport Facility/4	4 USTs	280.93(a)	Financial Responsibility	\$ 7,899.16
Oswego Facility/5	8 USTs	280.93(a)	Financial Responsibility	\$ 7,899.16
Martville Facility/6	1 USTs	280.93(a)	Financial Responsibility	\$13,069.20
Port Byron Facility/7	3 USTs	280.93(a)	Financial Responsibility	\$ 7,899.16
Cortland Facility/8	3 USTs	280.93(a)	Financial Responsibility	\$13,069.20
Geneva Facility /9	3 USTs	280.93(a)	Financial Responsibility	\$ 7,899.16
North Rose Facility/10	3 USTs	280.93(a)	Financial Responsibility	\$ 7,899.16
Sodus Point Facility/11	4 USTs	280.93(a)	Financial Responsibility	\$ 7,899.16
Red Creek Facility/12	2 USTs	280.93(a)	Financial Responsibility	\$13,069.20
Ontario Facility/13	3 USTs	280.93(a)	Financial Responsibility	\$ 7,899.16
Newark Facility/14	3 USTs	280.93(a)	Financial Responsibility	\$ 7,899.16
Wolcott Facility/15	4 USTs	280.93(a)	Financial Responsibility	\$ 7,899.16
Ontario Center Facility/16	3 USTs	280.93(a)	Financial Responsibility	\$ 7,899.16
Total Penalty				\$147,066.75

**COMPLIANCE ORDER**

Based on the foregoing, and pursuant to the authority of Section 9006 of the Act, 42 U.S.C. § 6991e, Complainant issues the following Compliance Order to each of the Respondents, which shall take effect with respect to each Respondent thirty (30) days after service of this Order (i.e., the effective date), unless by that date, the Respondent(s) has requested a hearing pursuant to 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):

Respondents will maintain compliance with all applicable financial responsibility requirements of 40 C.F.R. Part 280 subpart H for each federally regulated UST system at any of its facilities where they are an owner and/or operator of an UST system. If the Respondents are in noncompliance with a particular requirement of subpart H, the Respondents shall submit to EPA written notice stating the reasons for noncompliance and shall provide a schedule for achieving expeditious compliance with the requirement. Such written notice shall contain the following certification:

We certify that the information contained in this written notice and the accompanying documents is true, accurate and complete. As to the identified portions of this response for which we cannot personally verify their accuracy, I certify under penalty of law that this response 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 our 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. We are aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Respondents shall submit the notice required to be submitted pursuant to this paragraph to:

**Paul Sacker, Acting Team Leader  
UST Team, RCRA Compliance Branch  
Division of Enforcement and Compliance Assistance  
RCRA Compliance Branch  
290 Broadway, 20th Floor  
New York, NY 10007  
Attn: Ton Moy**

## **NOTICE OF LIABILITY FOR ADDITIONAL CIVIL PENALTIES**

Pursuant to Section 9006(a)(3) of the Act, 42 U.S.C. §6991e(a)(3), and the Inflation Adjustment Act, a violator failing to take corrective action within the time specified in the Compliance Order is liable for a civil penalty of up to \$56,467 for each day of continued noncompliance. See 81 Fed. Reg. 43,091 (July 1, 2016) (to be codified at 40 C.F.R Part 19). Such continued noncompliance may also result in suspension or revocation of any permits issued to the violator by EPA.

## **PROCEDURES GOVERNING THIS ADMINISTRATIVE LITIGATION**

Upon receipt of a compliance order issued under Section 9006 of the Act, 42 U.S.C. § 6991e Respondents may seek administrative review in accordance with 40 CFR Part 22. The Respondents may seek judicial review of the compliance order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. Sections 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 Respondents intend 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 Respondents are entitled to judgment as a matter of law, Respondents 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)

Respondents 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).

Respondents' 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 Respondents have any knowledge. 40 C.F.R. § 22.15(b). Where Respondents lack knowledge of a particular factual allegation and so state in their 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 Respondents dispute (and thus intends to place at issue in the proceeding); and (3) whether Respondents request a hearing. 40 C.F.R. § 22.15(b).

Respondents' failure to affirmatively raise in the Answer facts that constitute or that might constitute the grounds of its defense may preclude Respondents, 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 Respondents in their Answer, a hearing upon the issues raised by the Complaint and Answer may be held. 40 C.F.R. § 22.15(c). If, however, Respondents do 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 Respondents request 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 Respondents fail in their 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 Respondents fail 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, Respondents may be found in default upon motion. 40 C.F.R. § 22.17(a). Default by Respondents constitute, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondents' right to contest such factual allegations. 40 C.F.R. § 22.17(a). Following a default by Respondents 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 Respondents 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 the Respondents, and to collect the assessed penalty amount. Any default order

requiring compliance action shall be effective and enforceable against Respondents without further proceedings on the date 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 Respondents have 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 Respondents fail 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), Respondents waive their 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)], Respondents 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 Respondents request 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, Respondents may comment on the charges made in this Complaint, and Respondents may also provide whatever additional information that it believes is relevant to the disposition of this matter, including: (1) actions Respondents have 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 Respondents' ability to continue in business; and/or (4) any other special facts or circumstances Respondents wish to raise.

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

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

**Bruce H. Aber**  
**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) 637-3224 (phone)**  
[Aber.bruce@epa.gov](mailto:Aber.bruce@epa.gov)

The parties may engage in settlement discussions irrespective of whether Respondents have requested a hearing. 40 C.F.R. § 22.18(b)(1). Respondents' requesting a formal hearing does not prevent them 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 Respondents' 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, Respondents waive their right to contest the allegations in the Complaint and waive

their 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).

Respondents' 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. Respondents' entering into a settlement does not extinguish, waive, satisfy or otherwise affect their 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, Respondents wish not to contest the Compliance Order in the Complaint and want to pay the total amount of the proposed penalty within thirty (30) days after receipt of the Complaint, Respondents should promptly contact the Assistant Regional Counsel identified above.

Dated: 7/27/16

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

To: Case A. Marshall, Vice President  
Marshall Brothers, Inc.  
2737 Erie Drive—P.O. Box 1226  
Weedsport, NY 13166

Case A. Marshall, Vice President  
E & V Energy Corp.  
P.O. Box 160  
Wolcott, NY 14590

Case A. Marshall, Vice President  
E & V Energy Corp  
2737 Erie Drive  
Weedsport, NY 13166

Case A. Marshall, Vice President  
Erie Enterprises, LLC  
2737 Erie Drive--P.O. Box 1226  
Weedsport, NY 13166

Case A. Marshall, Vice President  
Marshall Family Associates, LLC  
2737 Erie Drive--P.O. Box 1226  
Weedsport, NY 13166

cc: Russ Brauksieck, Chief  
Facility Compliance Section  
Bureau of Technical Support  
Division of Environmental Remediation  
New York State Department of Environmental Conservation  
625 Broadway, Albany, N.Y. 12233-7020

**CERTIFICATE OF SERVICE**

This is to certify that I have this day caused to be mailed a copy of the foregoing Complaint, Compliance Order, and Notice of Opportunity for Hearing, bearing docket number RCRA-02-2016-7503, and a copy of the Consolidated Rules of Practice, 40 C.F.R. Part 22, by certified mail, return receipt requested, to:

Case A. Marshall, Vice President  
Marshall Brothers, Inc.  
2737 Erie Drive--PO Box 1226  
Weedsport, NY 13166

Case A. Marshall, Vice President  
E & V Energy Corp.  
P.O. Box 160  
Wolcott, NY 14590

Case A. Marshall, Vice President  
E & V Energy Corp  
2737 Erie Drive  
Weedsport, NY 13166

Case A. Marshall, Vice President  
Erie Enterprises, LLC  
2737 Erie Drive--P.O. Box 1226  
Weedsport, NY 13166

Case A. Marshall, Vice President  
Marshall Family Associates, LLC  
2737 Erie Drive--P.O. Box 1226  
Weedsport, NY 13166

I hand-carried the original and a copy of the foregoing Complaint to the Office of Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Dated: September 28, 2016  
New York, New York

Uplanda Najate

Attachment 1

**Marshall Brothers, Inc., E & V Energy Corp., Erie Enterprises LLC &  
Marshall Family Associates, LLC  
Summary of Violations  
Violations Cited**

**FREEWAY GROCERY, 54 WEST CHURCH STREET, ADAMS (V), NY**

**Violation #1**

**§280.93(a) - Comply with requirements**

<b>Proposed Penalty</b>	<b>\$ 7,899.16</b>	<b>Econ Ben</b>	<b>\$ 2,220.00</b>	<b>Gravity</b>	<b>\$ 5,679.16</b>
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**ELBRIDGE MINI MART, 101 EAST MAIN ST, ELBRIDGE, NY**

**Violation #2**

**§280.93(a) - Comply with requirements**

<b>Proposed Penalty</b>	<b>\$ 7,899.16</b>	<b>Econ Ben</b>	<b>\$ 2,220.00</b>	<b>Gravity</b>	<b>\$ 5,679.16</b>
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**GENOA PIT STOP, 1021 NY 34, GENOA, NY**

**Violation #3**

**§280.93(a) - Comply with requirements**

<b>Proposed Penalty</b>	<b>\$ 13,069.20</b>	<b>Econ Ben</b>	<b>\$ 2,220.00</b>	<b>Gravity</b>	<b>\$ 10,849.20</b>
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**THE PIT STOP, 9036 NORTH SENECA ST, WEEDSPORT, NY**

**Violation#4**

**§280.93(a) - Comply with requirements**

<b>Proposed Penalty</b>	<b>\$ 7,899.16</b>	<b>Econ Ben</b>	<b>\$ 2,220.00</b>	<b>Gravity</b>	<b>\$ 5,679.16</b>
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**Oswego Pit Stop, 181 East First St., Oswego, NY**

**Violation#5**

**§280.93(a) - Comply with requirements**

<b>Proposed Penalty</b>	<b>\$ 7,899.16</b>	<b>Econ Ben</b>	<b>\$ 2,220.00</b>	<b>Gravity</b>	<b>\$ 5,679.16</b>
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**NORTH VICTORY PIT STOP, 15057 NY 104, MARTVILLE, NY**

**Violation#6**

**§280.93(a) - Comply with requirements**

<b>Proposed Penalty</b>	<b>\$ 13,069.20</b>	<b>Econ Ben</b>	<b>\$ 2,220.00</b>	<b>Gravity</b>	<b>\$ 10,849.20</b>
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**PORT BYRON PIT STOP, 14 ROCHESTER ST, PORT BYRON, NY**

**Violation#7**

**§280.93(a) - Comply with requirements**

<b>Proposed Penalty</b>	<b>\$ 7,899.16</b>	<b>Econ Ben</b>	<b>\$ 2,220.00</b>	<b>Gravity</b>	<b>\$ 5,679.16</b>
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**Pit Stop Auto/Truck Stop, 3742 US Route 11, Cortland, NY**

**Violation#8**

**§280.93(a) - Comply with requirements**

<b>Proposed Penalty</b>	<b>\$ 13,069.20</b>	<b>Econ Ben</b>	<b>\$ 2,220.00</b>	<b>Gravity</b>	<b>\$ 10,849.20</b>
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<b>THE PIT STOP, 14 EXCHANGE STREET, GENEVA, NY</b>							
Violation#9							
§280.93(a) - Comply with requirements							
	Proposed Penalty	\$ 7,899.16	Econ Ben	\$ 2,220.00	Gravity	\$ 5,679.16	
<b>NORTH ROSE PIT STOP, 51 WEST MAIN STREET, NORTH ROSE, NY</b>							
Violation#10							
§280.93(a) - Comply with requirements							
	Proposed Penalty	\$ 7,899.16	Econ Ben	\$ 2,220.00	Gravity	\$ 5,679.16	
<b>SODUS POINT PIT STOP, 8463 BAY STREET, SODUS POINT, NY</b>							
Violation#11							
§280.93(a) - Comply with requirements							
	Proposed Penalty	\$ 7,899.16	Econ Ben	\$ 2,220.00	Gravity	\$ 5,679.16	
<b>RED CREEK PIT STOP, 14016 CANADA STREET, RED CREEK, NY</b>							
Violation#12							
§280.93(a) - Comply with requirements							
	Proposed Penalty	\$ 13,069.20	Econ Ben	\$ 2,220.00	Gravity	\$ 10,849.20	
<b>ONTARIO PIT STOP, 2007 ROUTE 104, ONTARIO, NY</b>							
Violation#13							
§280.93(a) - Comply with requirements							
	Proposed Penalty	\$ 7,899.16	Econ Ben	\$ 2,220.00	Gravity	\$ 5,679.16	
<b>NEWARK PIT STOP, 608 EAST UNION STREET, NEWARK, NY</b>							
Violation#14							
§280.93(a) - Comply with requirements							
	Proposed Penalty	\$ 7,899.16	Econ Ben	\$ 2,220.00	Gravity	\$ 5,679.16	
<b>WOLCOTT PIT STOP, 11977 WEST MAIN STREET, WOLCOTT, NY</b>							
Violation#15							
§280.93(a) - Comply with requirements							
	Proposed Penalty	\$ 7,899.16	Econ Ben	\$ 2,220.00	Gravity	\$ 5,679.16	
<b>ONTARIO CENTER PIT STOP, 1530 RIDGE ROAD, ONTARIO CENTER, NY</b>							
Violation#16							
§280.93(a) - Comply with requirements							
	Proposed Penalty	\$ 7,899.16	Econ Ben	\$ 2,220.00	Gravity	\$ 5,679.16	
<b>TOTAL</b>							
		\$ 147,066.75		\$ 35,520.00		\$ 111,546.75	

Site: **FREEWAY GROCERY, 54 WEST CHURCH STREET, ADAMS (V), NY**

Violation: **§280.93(a) - Comply with requirements**

1. Days of noncompliance: **9-Feb-13 10-Feb-16**
2. Number of facilities, tanks or pipes: **1**
3. Total number of days: **1,097**

**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. Initial Economic Benefit (4-5+6): **\$ -**
8. Final Economic Benefit at Penalty Payment Date: **\$ 2,220.00**

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

9. Matrix Value (MV): **750**

*Inflation Adjustment Rules:*

	Value	Start Date	End Date	Inflation	Value+Inflatio	Round To	Matrix	Total
10a.	<b>750</b>	<b>2/9/2013</b>	<b>2/10/2016</b>	<b>1.4163</b>	<b>\$ 1,062.23</b>	<b>10</b>	<b>\$ 1,060.00</b>	<b>\$ 1,060.00</b>

Note: Inflation adjustments are defined as:

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

Potential for Harm: **Moderate**      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%	<b>\$1,060.00</b>	-
12a. Degree of willfulness or negligence:	0%	<b>\$1,060.00</b>	-
13a. History of noncompliance:	0%	<b>\$1,060.00</b>	-
14a. Unique factors:	0%	<b>\$1,060.00</b>	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			<b>\$1,060.00</b>

Justification for Degree of Cooperation/ Noncooperati **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): **5**  
 18a. 

	Start	End	Days	DNM
	2/9/2013	2/10/2016	1,097	5

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
19a.	2/9/2013	2/10/2016	\$1,060.00	1	5	\$ 5,300.00
20. Total Gravity-Based Component =						\$ 5,300.00
21. Economic Benefit Component (from line 8):						\$ 2,220.00
22. Gravity-Based Component (from line 20):						\$ 5,300.00
23. Initial Penalty Target Figure: (line 21 plus line 22):						\$ 7,520.00

Pre-2015 days

**9-Feb-13**    **2-Nov-15**  
**1**  
**997**                      X1 =    0.908842297    Y1 =            \$    4,816.86

Post-2015 Days

**2-Nov-15**    **10-Feb-16**  
**1**  
**100**                      X2 =    0.091157703    Y2 =            \$        862.30  
 includes adjustment factor of 1.2579

Adj Gravity \$ 5,679.16  
 24. Adj Penalty Target Figure: \$ 7,899.16

Site: **ELBRIDGE MINI MART, 101 EAST MAIN ST, ELBRIDGE, NY**

Violation: **§280.93(a) - Comply with requirements**

- 1. Days of noncompliance: **9-Feb-13 10-Feb-16**
- 2. Number of facilities, tanks or pipes: **1**
- 3. Total number of days: **1,097**

**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. Initial Economic Benefit (4-5+6): **\$ -**
- 8. Final Economic Benefit at Penalty Payment Date: **\$ 2,220.00**

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

- 9. Matrix Value (MV): **750**

*Inflation Adjustment Rules:*

	Value	Start Date	End Date	Inflation	Value+Inflatio Round To	Matrix	Total
10a.	<b>750</b>	<b>2/9/2013</b>	<b>2/10/2016</b>	<b>1.4163</b>	<b>\$ 1,062.23</b>	<b>10 \$1,060.00</b>	<b>\$ 1,060.00</b>

Note: Inflation adjustments are defined as:

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

Potential for Harm: **Moderate**      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%	<b>\$1,060.00</b>	-
12a. Degree of willfulness or negligence:	0%	<b>\$1,060.00</b>	-
13a. History of noncompliance:	0%	<b>\$1,060.00</b>	-
14a. Unique factors:	0%	<b>\$1,060.00</b>	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			<b>\$1,060.00</b>

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

Justification for Degree of Willfulness or Negligenc **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): **5**  
 18a. 

Start	End	Days	DNM
2/9/2013	2/10/2016	1,097	5

Calculations for Gravity Based Components:

Start	End	(AMV)	(ESM)	(DNM)	TOTAL
2/9/2013	2/10/2016	\$1,060.00	1	5	\$ 5,300.00

20. Total Gravity-Based Component = **\$ 5,300.00**

21. Economic Benefit Component (from line 8): **\$ 2,220.00**

22. Gravity-Based Component (from line 20): **\$ 5,300.00**

23. Initial Penalty Target Figure: (line 21 plus line 22): **\$ 7,520.00**

Pre-2015 days

**9-Feb-13 2-Nov-15**  
**1**  
**997** X1 = 0.908842297 Y1 = \$ 4,816.86

Post-2015 Days

**2-Nov-15 10-Feb-16**  
**1**  
**100** X2 = 0.091157703 Y2 = \$ 862.30  
 includes adjustment factor of 1.2579

Adj Gravity **\$ 5,679.16**

24. Adj Penalty Target Figure: **\$ 7,899.16**

Site: **GENOA PIT STOP, 1021 NY 34, GENOA, NY**

Violation: **§280.93(a) - Comply with requirements**

1. Days of noncompliance: **9-Feb-13 10-Feb-16**
2. Number of facilities, tanks or pipes: **1**
3. Total number of days: **1,097**

**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. Initial Economic Benefit (4-5+6): **\$ -**
8. Final Economic Benefit at Penalty Payment Date: **\$ 2,220.00**

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

9. Matrix Value (MV): **750**

*Inflation Adjustment Rules:*

	Value	Start Date	End Date	Inflation	Value+Inflatio Round To	Matrix	Total
10a.	<b>750</b>	<b>2/9/2013</b>	<b>2/10/2016</b>	<b>1.4163</b>	<b>\$ 1,062.23</b>	<b>10 \$1,060.00</b>	<b>\$ 1,060.00</b>

Note: Inflation adjustments are defined as:

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

Potential for Harm: **Moderate**      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%	<b>\$1,060.00</b>	-
12a. Degree of willfulness or negligence:	0%	<b>\$1,060.00</b>	-
13a. History of noncompliance:	0%	<b>\$1,060.00</b>	-
14a. Unique factors:	0%	<b>\$1,060.00</b>	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			<b>\$1,060.00</b>

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

Justification for Degree of Willfulness or Negligen **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:

18. Days of Noncompliance Multiplier (DNM): **5**  
 18a. 

Start	End	Days	DNM
2/9/2013	2/10/2016	1,097	5

Calculations for Gravity Based Components:

Start	End	(AMV)	(ESM)	(DNM)	TOTAL
2/9/2013	2/10/2016	\$1,060.00	2	5	\$ 10,600.00

20. Total Gravity-Based Component = **\$ 10,600.00**

21. Economic Benefit Component (from line 8): **\$ 2,220.00**

22. Gravity-Based Component (from line 20): **\$ 10,600.00**

23. Initial Penalty Target Figure: (line 21 plus line 22): **\$ 12,820.00**

Pre-2015 days

9-Feb-13 2-Nov-15

1

997

X1 =

0.9088423 Y1 =

\$

9,633.73

Post-2015 Days

2-Nov-15 10-Feb-16

1

100

X2 =

0.0911577 Y2 =

\$

1,215.47

includes adjustment factor of 1.2579

Adj Gravity **\$ 10,849.20**

24. Adj Penalty Target Figure: **\$ 13,069.20**

Site: **THE PIT STOP, 9036 NORTH SENECA ST, WEEDSPORT, NY**

Violation: **§280.93(a) - Comply with requirements**

1. Days of noncompliance: **9-Feb-13 10-Feb-16**
2. Number of facilities, tanks or pipes: **1**
3. Total number of days: **1,097**

**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. Initial Economic Benefit (4-5+6): **\$ -**
8. Final Economic Benefit at Penalty Payment Date: **\$ 2,220.00**

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

9. Matrix Value (MV): **750**

*Inflation Adjustment Rules:*

	Value	Start Date	End Date	Inflation	Value+Inflatio Round To	Matrix	Total
10a.	<b>750</b>	<b>2/9/2013</b>	<b>2/10/2016</b>	<b>1.4163</b>	<b>\$ 1,062.23</b>	<b>10 \$1,060.00</b>	<b>\$ 1,060.00</b>

Note: Inflation adjustments are defined as:

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

Potential for Harm: **Moderate**      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%	<b>\$1,060.00</b>	-
12a. Degree of willfulness or negligence:	0%	<b>\$1,060.00</b>	-
13a. History of noncompliance:	0%	<b>\$1,060.00</b>	-
14a. Unique factors:	0%	<b>\$1,060.00</b>	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			<b>\$1,060.00</b>

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

Justification for Degree of Willfulness or Negligenc **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): **5**  
 18a. 

Start	End	Days	DNM
2/9/2013	2/10/2016	1,097	5

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
19a.	2/9/2013	2/10/2016	\$1,060.00	1	5	\$ 5,300.00
20. Total Gravity-Based Component =						\$ 5,300.00
21. Economic Benefit Component (from line 8):						\$ 2,220.00
22. Gravity-Based Component (from line 20):						\$ 5,300.00
23. Initial Penalty Target Figure: (line 21 plus line 22):						\$ 7,520.00

Pre-2015 days

**9-Feb-13** **2-Nov-15**  
**1**  
**997** X1 = 0.908842297 Y1 = \$ 4,816.86

Post-2015 Days

**2-Nov-15** **10-Feb-16**  
**1**  
**100** X2 = 0.091157703 Y2 = \$ 862.30  
 includes adjustment factor of 1.2579

Adj Gravity \$ 5,679.16  
 24. Adj Penalty Target Figure: \$ 7,899.16

Site: **Oswego Pit Stop, 181 East First St., Oswego, NY**

Violation: **§280.93(a) - Comply with requirements**

1. Days of noncompliance: **9-Feb-13 10-Feb-16**
2. Number of facilities, tanks or pipes: **1**
3. Total number of days: **1,097**

**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. Initial Economic Benefit (4-5+6): **\$ -**
8. Final Economic Benefit at Penalty Payment Date: **\$ 2,220.00**

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

9. Matrix Value (MV): **750**

*Inflation Adjustment Rules:*

	Value	Start Date	End Date	Inflation	Value+Inflatio Round To	Matrix	Total
10a.	<b>750</b>	<b>2/9/2013</b>	<b>2/10/2016</b>	<b>1.4163</b>	<b>\$ 1,062.23</b>	<b>10 \$1,060.00</b>	<b>\$ 1,060.00</b>

Note: Inflation adjustments are defined as:

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

Potential for Harm: **Moderate**      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%	<b>\$1,060.00</b>	-
12a. Degree of willfulness or negligence:	0%	<b>\$1,060.00</b>	-
13a. History of noncompliance:	0%	<b>\$1,060.00</b>	-
14a. Unique factors:	0%	<b>\$1,060.00</b>	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			<b>\$1,060.00</b>

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

Justification for Degree of Willfulness or Negligenc **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): **5**  
 18a. 

	Start	End	Days	DNM
	2/9/2013	2/10/2016	1,097	5

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
19a.	2/9/2013	2/10/2016	\$1,060.00	1	5	\$ 5,300.00
20. Total Gravity-Based Component =						\$ 5,300.00
21. Economic Benefit Component (from line 8):						\$ 2,220.00
22. Gravity-Based Component (from line 20):						\$ 5,300.00
23. Initial Penalty Target Figure: (line 21 plus line 22):						\$ 7,520.00

Pre-2015 days

9-Feb-13 2-Nov-15  
 1  
 997 X1 = 0.908842297 Y1 = \$ 4,816.86

Post-2015 Days

2-Nov-15 10-Feb-16  
 1  
 100 X2 = 0.091157703 Y2 = \$ 862.30  
 includes adjustment factor of 1.2579

Adj Gravity \$ 5,679.16  
 24. Adj Penalty Target Figure: \$ 7,899.16

Site: **NORTH VICTORY PIT STOP, 15057 NY 104, MARTVILLE, NY**

Violation: **§280.93(a) - Comply with requirements**

1. Days of noncompliance: **9-Feb-13 10-Feb-16**
2. Number of facilities, tanks or pipes: **1**
3. Total number of days: **1,097**

**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. Initial Economic Benefit (4-5+6): **\$ -**
8. Final Economic Benefit at Penalty Payment Date: **\$ 2,220.00**

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

9. Matrix Value (MV): **750**

*Inflation Adjustment Rules:*

	Value	Start Date	End Date	Inflation	Value+Inflatio Round To	Matrix	Total
10a.	<b>750</b>	<b>2/9/2013</b>	<b>2/10/2016</b>	<b>1.4163</b>	<b>\$ 1,062.23</b>	<b>10 \$1,060.00</b>	<b>\$ 1,060.00</b>

Note: Inflation adjustments are defined as:

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

Potential for Harm: **Moderate**      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%	<b>\$1,060.00</b>	-
12a. Degree of willfulness or negligence:	0%	<b>\$1,060.00</b>	-
13a. History of noncompliance:	0%	<b>\$1,060.00</b>	-
14a. Unique factors:	0%	<b>\$1,060.00</b>	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			<b>\$1,060.00</b>

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

Justification for Degree of Willfulness or Negligenc **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:

18. Days of Noncompliance Multiplier (DNM): **5**  
 18a. 

	Start	End	Days	DNM
	2/9/2013	2/10/2016	1,097	5

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
19a.	2/9/2013	2/10/2016	\$1,060.00	2	5	\$ 10,600.00
20. Total Gravity-Based Component =						\$ 10,600.00
21. Economic Benefit Component (from line 8):						\$ 2,220.00
22. Gravity-Based Component (from line 20):						\$ 10,600.00
23. Initial Penalty Target Figure: (line 21 plus line 22):						\$ 12,820.00

Pre-2015 days

9-Feb-13 2-Nov-15  
 1  
 997 X1 = 0.908842297 Y1 = \$ 9,633.73

Post-2015 Days

2-Nov-15 10-Feb-16  
 1  
 100 X2 = 0.091157703 Y2 = \$ 1,215.47  
 includes adjustment factor of 1.2579

Adj Gravity \$ 10,849.20  
 24. Adj Penalty Target Figure: \$ 13,069.20

Site: **PORT BYRON PIT STOP, 14 ROCHESTER ST, PORT BYRON, NY**

Violation: **§280.93(a) - Comply with requirements**

- 1. Days of noncompliance: **9-Feb-13 10-Feb-16**
- 2. Number of facilities, tanks or pipes: **1**
- 3. Total number of days: **1,097**

**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. Initial Economic Benefit (4-5+6): **\$ -**
- 8. Final Economic Benefit at Penalty Payment Date: **\$ 2,220.00**

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

- 9. Matrix Value (MV): **750**

*Inflation Adjustment Rules:*

	Value	Start Date	End Date	Inflation	Value+Inflatio Round To	Matrix	Total
10a.	<b>750</b>	<b>2/9/2013</b>	<b>2/10/2016</b>	<b>1.4163</b>	<b>\$ 1,062.23</b>	<b>10 \$1,060.00</b>	<b>\$ 1,060.00</b>

Note: Inflation adjustments are defined as:

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

Potential for Harm: **Moderate**      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%	<b>\$1,060.00</b>	-
12a. Degree of willfulness or negligence:	0%	<b>\$1,060.00</b>	-
13a. History of noncompliance:	0%	<b>\$1,060.00</b>	-
14a. Unique factors:	0%	<b>\$1,060.00</b>	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			<b>\$1,060.00</b>

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

Justification for Degree of Willfulness or Negligenc **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): **5**  
 18a. 

Start	End	Days	DNM
2/9/2013	2/10/2016	1,097	5

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
19a.	2/9/2013	2/10/2016	\$1,060.00	1	5	\$ 5,300.00
20. Total Gravity-Based Component =						\$ 5,300.00
21. Economic Benefit Component (from line 8):						\$ 2,220.00
22. Gravity-Based Component (from line 20):						\$ 5,300.00
23. Initial Penalty Target Figure: (line 21 plus line 22):						\$ 7,520.00

Pre-2015 days

9-Feb-13 2-Nov-15  
 1  
 997 X1 = 0.908842297 Y1 = \$ 4,816.86

Post-2015 Days

2-Nov-15 10-Feb-16  
 1  
 100 X2 = 0.091157703 Y2 = \$ 862.30  
 includes adjustment factor of 1.2579

Adj Gravity \$ 5,679.16  
 24. Adj Penalty Target Figure: \$ 7,899.16

Site: **Pit Stop Auto/Truck Stop, 3742 US Route 11, Cortland, NY**

Violation: **§280.93(a) - Comply with requirements**

1. Days of noncompliance: **9-Feb-13 10-Feb-16**
2. Number of facilities, tanks or pipes: **1**
3. Total number of days: **1,097**

**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. Initial Economic Benefit (4-5+6): **\$ -**
8. Final Economic Benefit at Penalty Payment Date: **\$ 2,220.00**

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

9. Matrix Value (MV): **750**

*Inflation Adjustment Rules:*

	Value	Start Date	End Date	Inflation	Value+Inflatio Round To	Matrix	Total
10a.	<b>750</b>	<b>2/9/2013</b>	<b>2/10/2016</b>	<b>1.4163</b>	<b>\$ 1,062.23</b>	<b>10 \$1,060.00</b>	<b>\$ 1,060.00</b>

Note: Inflation adjustments are defined as:

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

Potential for Harm: **Moderate**      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%	<b>\$1,060.00</b>	-
12a. Degree of willfulness or negligence:	0%	<b>\$1,060.00</b>	-
13a. History of noncompliance:	0%	<b>\$1,060.00</b>	-
14a. Unique factors:	0%	<b>\$1,060.00</b>	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			<b>\$1,060.00</b>

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

Justification for Degree of Willfulness or Negligenc **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:

18. Days of Noncompliance Multiplier (DNM): **5**  
 18a. 

	Start	End	Days	DNM
	2/9/2013	2/10/2016	1,097	5

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
19a.	2/9/2013	2/10/2016	\$1,060.00	2	5	\$ 10,600.00

20. Total Gravity-Based Component = **\$ 10,600.00**

21. Economic Benefit Component (from line 8): **\$ 2,220.00**

22. Gravity-Based Component (from line 20): **\$ 10,600.00**

23. Initial Penalty Target Figure: (line 21 plus line 22): **\$ 12,820.00**

Pre-2015 days

**9-Feb-13 2-Nov-15**  
**1**  
**997** X1 = 0.908842297 Y1 = \$ 9,633.73

Post-2015 Days

**2-Nov-15 10-Feb-16**  
**1**  
**100** X2 = 0.091157703 Y2 = \$ 1,215.47  
 includes adjustment factor of 1.2579

Adj Gravity **\$ 10,849.20**

24. Adj Penalty Target Figure: **\$ 13,069.20**

Site: **THE PIT STOP, 14 EXCHANGE STREET, GENEVA, NY**

Violation: **§280.93(a) - Comply with requirements**

1. Days of noncompliance: **9-Feb-13 10-Feb-16**
2. Number of facilities, tanks or pipes: **1**
3. Total number of days: **1,097**

**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. Initial Economic Benefit (4-5+6): **\$ -**
8. Final Economic Benefit at Penalty Payment Date: **\$ 2,220.00**

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

9. Matrix Value (MV): **750**

*Inflation Adjustment Rules:*

	Value	Start Date	End Date	Inflation	Value+Inflatio Round To	Matrix	Total
10a.	750	2/9/2013	2/10/2016	1.4163	\$ 1,062.23	10 \$1,060.00	\$ 1,060.00

Note: Inflation adjustments are defined as:

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

Potential for Harm: **Moderate**      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%	<b>\$1,060.00</b>	-
12a. Degree of willfulness or negligence:	0%	<b>\$1,060.00</b>	-
13a. History of noncompliance:	0%	<b>\$1,060.00</b>	-
14a. Unique factors:	0%	<b>\$1,060.00</b>	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			<b>\$1,060.00</b>

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

Justification for Degree of Willfulness or Negligenc **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): **5**  
 18a. 

Start	End	Days	DNM
2/9/2013	2/10/2016	1,097	5

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
19a.	2/9/2013	2/10/2016	\$1,060.00	1	5	\$ 5,300.00
20. Total Gravity-Based Component =						\$ 5,300.00
21. Economic Benefit Component (from line 8):						\$ 2,220.00
22. Gravity-Based Component (from line 20):						\$ 5,300.00
23. Initial Penalty Target Figure: (line 21 plus line 22):						\$ 7,520.00

Pre-2015 days

9-Feb-13 2-Nov-15  
 1  
 997 X1 = 0.908842297 Y1 = \$ 4,816.86

Post-2015 Days

2-Nov-15 10-Feb-16  
 1  
 100 X2 = 0.091157703 Y2 = \$ 862.30  
 includes adjustment factor of 1.2579

Adj Gravity \$ 5,679.16  
 24. Adj Penalty Target Figure: \$ 7,899.16

Site: **NORTH ROSE PIT STOP, 51 WEST MAIN STREET, NORTH ROSE, NY**

Violation: **§280.93(a) - Comply with requirements**

1. Days of noncompliance: **9-Feb-13 10-Feb-16**
2. Number of facilities, tanks or pipes: **1**
3. Total number of days: **1,097**

**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. Initial Economic Benefit (4-5+6): **\$ -**
8. Final Economic Benefit at Penalty Payment Date: **\$ 2,220.00**

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

9. Matrix Value (MV): **750**

*Inflation Adjustment Rules:*

	Value	Start Date	End Date	Inflation	Value+Inflatio Round To	Matrix	Total
10a.	<b>750</b>	<b>2/9/2013</b>	<b>2/10/2016</b>	<b>1.4163</b>	<b>\$ 1,062.23</b>	<b>10 \$1,060.00</b>	<b>\$ 1,060.00</b>

Note: Inflation adjustments are defined as:

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

Potential for Harm: **Moderate**      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%	<b>\$1,060.00</b>	-
12a. Degree of willfulness or negligence:	0%	<b>\$1,060.00</b>	-
13a. History of noncompliance:	0%	<b>\$1,060.00</b>	-
14a. Unique factors:	0%	<b>\$1,060.00</b>	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			<b>\$1,060.00</b>

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

Justification for Degree of Willfulness or Negligenc **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): **5**  
 18a. 

Start	End	Days	DNM
2/9/2013	2/10/2016	1,097	5

Calculations for Gravity Based Components:

Start	End	(AMV)	(ESM)	(DNM)	TOTAL
2/9/2013	2/10/2016	\$1,060.00	1	5	\$ 5,300.00
20. Total Gravity-Based Component =					\$ 5,300.00
21. Economic Benefit Component (from line 8):					\$ 2,220.00
22. Gravity-Based Component (from line 20):					\$ 5,300.00
23. Initial Penalty Target Figure: (line 21 plus line 22):					\$ 7,520.00

Pre-2015 days

**9-Feb-13** **2-Nov-15**  
**1**  
**997** X1 = 0.908842297 Y1 = \$ 4,816.86

Post-2015 Days

**2-Nov-15** **10-Feb-16**  
**1**  
**100** X2 = 0.091157703 Y2 = \$ 862.30  
 includes adjustment factor of 1.2579

Adj Gravity \$ 5,679.16  
 24. Adj Penalty Target Figure: \$ 7,899.16

Site: **SODUS POINT PIT STOP, 8463 BAY STREET, SODUS POINT, NY**

Violation: **§280.93(a) - Comply with requirements**

1. Days of noncompliance: **9-Feb-13 10-Feb-16**
2. Number of facilities, tanks or pipes: **1**
3. Total number of days: **1,097**

**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. Initial Economic Benefit (4-5+6): **\$ -**
8. Final Economic Benefit at Penalty Payment Date: **\$ 2,220.00**

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

9. Matrix Value (MV): **750**

*Inflation Adjustment Rules:*

	Value	Start Date	End Date	Inflation	Value+Inflatio	Round To	Matrix	Total
10a.	<b>750</b>	<b>2/9/2013</b>	<b>2/10/2016</b>	<b>1.4163</b>	<b>\$ 1,062.23</b>	<b>10</b>	<b>\$1,060.00</b>	<b>\$ 1,060.00</b>

Note: Inflation adjustments are defined as:

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

Potential for Harm: **Moderate**      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%	<b>\$1,060.00</b>	-
12a. Degree of willfulness or negligence:	0%	<b>\$1,060.00</b>	-
13a. History of noncompliance:	0%	<b>\$1,060.00</b>	-
14a. Unique factors:	0%	<b>\$1,060.00</b>	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			<b>\$1,060.00</b>

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

Justification for Degree of Willfulness or Negligenc **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): **5**  
 18a. 

	Start	End	Days	DNM
	<b>2/9/2013</b>	<b>2/10/2016</b>	<b>1,097</b>	<b>5</b>

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
19a.	<b>2/9/2013</b>	<b>2/10/2016</b>	<b>\$1,060.00</b>	<b>1</b>	<b>5</b>	<b>\$ 5,300.00</b>
20. Total Gravity-Based Component =						<b>\$ 5,300.00</b>
21. Economic Benefit Component (from line 8):						<b>\$ 2,220.00</b>
22. Gravity-Based Component (from line 20):						<b>\$ 5,300.00</b>
23. Initial Penalty Target Figure: (line 21 plus line 22):						<b>\$ 7,520.00</b>

Pre-2015 days

**9-Feb-13 2-Nov-15**  
 1  
 997 X1 = 0.908842297 Y1 = \$ 4,816.86

Post-2015 Days

**2-Nov-15 10-Feb-16**  
 1  
 100 X2 = 0.091157703 Y2 = \$ 862.30  
 includes adjustment factor of 1.2579

Adj Gravity \$ 5,679.16  
 24. Adj Penalty Target Figure: **\$ 7,899.16**

Site: **RED CREEK PIT STOP, 14016 CANADA STREET, RED CREEK, NY**

Violation: **§280.93(a) - Comply with requirements**

1. Days of noncompliance: **9-Feb-13 10-Feb-16**
2. Number of facilities, tanks or pipes: **1**
3. Total number of days: **1,097**

**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. Initial Economic Benefit (4-5+6): **\$ -**
8. Final Economic Benefit at Penalty Payment Date: **\$ 2,220.00**

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

9. Matrix Value (MV): **750**

*Inflation Adjustment Rules:*

	Value	Start Date	End Date	Inflation	Value+Inflatio Round To	Matrix	Total
10a.	<b>750</b>	<b>2/9/2013</b>	<b>2/10/2016</b>	<b>1.4163</b>	<b>\$ 1,062.23</b>	<b>10 \$1,060.00</b>	<b>\$ 1,060.00</b>

Note: Inflation adjustments are defined as:

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

Potential for Harm: **Moderate**      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%	<b>\$1,060.00</b>	-
12a. Degree of willfulness or negligence:	0%	<b>\$1,060.00</b>	-
13a. History of noncompliance:	0%	<b>\$1,060.00</b>	-
14a. Unique factors:	0%	<b>\$1,060.00</b>	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			<b>\$1,060.00</b>

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

Justification for Degree of Willfulness or Negligenc **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:

18. Days of Noncompliance Multiplier (DNM): **5**  
 18a. 

Start	End	Days	DNM
2/9/2013	2/10/2016	1,097	5

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
19a.	2/9/2013	2/10/2016	\$1,060.00	2	5	\$ 10,600.00
20. Total Gravity-Based Component =						\$ 10,600.00
21. Economic Benefit Component (from line 8):						\$ 2,220.00
22. Gravity-Based Component (from line 20):						\$ 10,600.00
23. Initial Penalty Target Figure: (line 21 plus line 22):						\$ 12,820.00

Pre-2015 days

9-Feb-13 2-Nov-15  
 1  
 997 X1 = 0.908842297 Y1 = \$ 9,633.73

Post-2015 Days

2-Nov-15 10-Feb-16  
 1  
 100 X2 = 0.091157703 Y2 = \$ 1,215.47  
 includes adjustment factor of 1.2579

Adj Gravity \$ 10,849.20  
 24. Adj Penalty Target Figure: \$ 13,069.20

Site: **ONTARIO PIT STOP, 2007 ROUTE 104, ONTARIO, NY**

Violation: **§280.93(a) - Comply with requirements**

1. Days of noncompliance: **9-Feb-13 10-Feb-16**
2. Number of facilities, tanks or pipes: **1**
3. Total number of days: **1,097**

**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. Initial Economic Benefit (4-5+6): **\$ -**
8. Final Economic Benefit at Penalty Payment Date: **\$ 2,220.00**

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

9. Matrix Value (MV): **750**

*Inflation Adjustment Rules:*

	Value	Start Date	End Date	Inflation	Value+Inflatio Round To	Matrix	Total
10a.	<b>750</b>	<b>2/9/2013</b>	<b>2/10/2016</b>	<b>1.4163</b>	<b>\$ 1,062.23</b>	<b>10 \$1,060.00</b>	<b>\$ 1,060.00</b>

Note: Inflation adjustments are defined as:

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

Potential for Harm: **Moderate**      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%	<b>\$1,060.00</b>	-
12a. Degree of willfulness or negligence:	0%	<b>\$1,060.00</b>	-
13a. History of noncompliance:	0%	<b>\$1,060.00</b>	-
14a. Unique factors:	0%	<b>\$1,060.00</b>	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			<b>\$1,060.00</b>

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

Justification for Degree of Willfulness or Negligenc **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): **5**  
 18a. 

	Start	End	Days	DNM
	2/9/2013	2/10/2016	1,097	5

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
19a.	2/9/2013	2/10/2016	\$1,060.00	1	5	\$ 5,300.00
20. Total Gravity-Based Component =						\$ 5,300.00
21. Economic Benefit Component (from line 8):						\$ 2,220.00
22. Gravity-Based Component (from line 20):						\$ 5,300.00
23. Initial Penalty Target Figure: (line 21 plus line 22):						\$ 7,520.00

Pre-2015 days

9-Feb-13 2-Nov-15  
 1  
 997 X1 = 0.908842297 Y1 = \$ 4,816.86

Post-2015 Days

2-Nov-15 10-Feb-16  
 1  
 100 X2 = 0.091157703 Y2 = \$ 862.30  
 includes adjustment factor of 1.2579

Adj Gravity \$ 5,679.16  
 24. Adj Penalty Target Figure: \$ 7,899.16

Site: **NEWARK PIT STOP, 608 EAST UNION STREET, NEWARK, NY**

Violation: **§280.93(a) - Comply with requirements**

1. Days of noncompliance: **9-Feb-13 10-Feb-16**
2. Number of facilities, tanks or pipes: **1**
3. Total number of days: **1,097**

**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. Initial Economic Benefit (4-5+6): **\$ -**
8. Final Economic Benefit at Penalty Payment Date: **\$ 2,220.00**

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

9. Matrix Value (MV): **750**

*Inflation Adjustment Rules:*

	Value	Start Date	End Date	Inflation	Value+Inflatio Round To	Matrix	Total
10a.	<b>750</b>	<b>2/9/2013</b>	<b>2/10/2016</b>	<b>1.4163</b>	<b>\$ 1,062.23</b>	<b>10 \$1,060.00</b>	<b>\$ 1,060.00</b>

Note: Inflation adjustments are defined as:

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

Potential for Harm: **Moderate**      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%	<b>\$1,060.00</b>	-
12a. Degree of willfulness or negligence:	0%	<b>\$1,060.00</b>	-
13a. History of noncompliance:	0%	<b>\$1,060.00</b>	-
14a. Unique factors:	0%	<b>\$1,060.00</b>	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			<b>\$1,060.00</b>

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

Justification for Degree of Willfulness or Negligenc **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): **5**  
 18a. 

Start	End	Days	DNM
2/9/2013	2/10/2016	1,097	5

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
19a.	2/9/2013	2/10/2016	\$1,060.00	1	5	\$ 5,300.00
20. Total Gravity-Based Component =						\$ 5,300.00
21. Economic Benefit Component (from line 8):						\$ 2,220.00
22. Gravity-Based Component (from line 20):						\$ 5,300.00
23. Initial Penalty Target Figure: (line 21 plus line 22):						\$ 7,520.00

Pre-2015 days

9-Feb-13 2-Nov-15  
 1  
 997 X1 = 0.908842297 Y1 = \$ 4,816.86

Post-2015 Days

2-Nov-15 10-Feb-16  
 1  
 100 X2 = 0.091157703 Y2 = \$ 862.30  
 includes adjustment factor of 1.2579

Adj Gravity \$ 5,679.16  
 24. Adj Penalty Target Figure: \$ 7,899.16

Site: **WOLCOTT PIT STOP, 11977 WEST MAIN STREET, WOLCOTT, NY**

Violation: **§280.93(a) - Comply with requirements**

1. Days of noncompliance: **9-Feb-13 10-Feb-16**
2. Number of facilities, tanks or pipes: **1**
3. Total number of days: **1,097**

**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. Initial Economic Benefit (4-5+6): **\$ -**
8. Final Economic Benefit at Penalty Payment Date: **\$ 2,220.00**

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

9. Matrix Value (MV): **750**

*Inflation Adjustment Rules:*

	Value	Start Date	End Date	Inflation	Value+Inflatio Round To	Matrix	Total
10a.	<b>750</b>	<b>2/9/2013</b>	<b>2/10/2016</b>	<b>1.4163</b>	<b>\$ 1,062.23</b>	<b>10 \$1,060.00</b>	<b>\$ 1,060.00</b>

Note: Inflation adjustments are defined as:

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

Potential for Harm: **Moderate**      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%	<b>\$1,060.00</b>	-
12a. Degree of willfulness or negligence:	0%	<b>\$1,060.00</b>	-
13a. History of noncompliance:	0%	<b>\$1,060.00</b>	-
14a. Unique factors:	0%	<b>\$1,060.00</b>	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			<b>\$1,060.00</b>

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

Justification for Degree of Willfulness or Negligenc **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): **5**  
 18a. 

Start	End	Days	DNM
2/9/2013	2/10/2016	1,097	5

Calculations for Gravity Based Components:

	Start	End	(AMV)	(ESM)	(DNM)	TOTAL
19a.	2/9/2013	2/10/2016	\$1,060.00	1	5	\$ 5,300.00
20. Total Gravity-Based Component =						\$ 5,300.00
21. Economic Benefit Component (from line 8):						\$ 2,220.00
22. Gravity-Based Component (from line 20):						\$ 5,300.00
23. Initial Penalty Target Figure: (line 21 plus line 22):						\$ 7,520.00

Pre-2015 days

9-Feb-13 2-Nov-15  
 1  
 997 X1 = 0.908842297 Y1 = \$ 4,816.86

Post-2015 Days

2-Nov-15 10-Feb-16  
 1  
 100 X2 = 0.091157703 Y2 = \$ 862.30  
 includes adjustment factor of 1.2579

Adj Gravity \$ 5,679.16  
 24. Adj Penalty Target Figure: \$ 7,899.16

Site: **ONTARIO CENTER PIT STOP, 1530 RIDGE ROAD, ONTARIO CENTER, NY**  
 Violation: **§280.93(a) - Comply with requirements**

- 1. Days of noncompliance: **9-Feb-13 10-Feb-16**
- 2. Number of facilities, tanks or pipes: **1**
- 3. Total number of days: **1,097**

**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. Initial Economic Benefit (4-5+6): **\$ -**
- 8. Final Economic Benefit at Penalty Payment Date: **\$ 2,220.00**

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

- 9. Matrix Value (MV): **750**

*Inflation Adjustment Rules:*

	Value	Start Date	End Date	Inflation	Value+Inflatio Round To	Matrix	Total
10a.	<b>750</b>	<b>2/9/2013</b>	<b>2/10/2016</b>	<b>1.4163</b>	<b>\$ 1,062.23</b>	<b>10 \$1,060.00</b>	<b>\$ 1,060.00</b>

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

Potential for Harm: **Moderate**      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%	<b>\$1,060.00</b>	-
12a. Degree of willfulness or negligence:	0%	<b>\$1,060.00</b>	-
13a. History of noncompliance:	0%	<b>\$1,060.00</b>	-
14a. Unique factors:	0%	<b>\$1,060.00</b>	-
15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a)			<b>\$1,060.00</b>

Justification for Degree of Cooperation/ Noncoope **no adjustmer** No adjustment was made.  
 Justification for Degree of Willfulness or Negligenc **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): **5**  
 18a. 

Start	End	Days	DNM
2/9/2013	2/10/2016	1,097	5

Calculations for Gravity Based Components:

Start	End	(AMV)	(ESM)	(DNM)	TOTAL
2/9/2013	2/10/2016	\$1,060.00	1	5	\$ 5,300.00
20. Total Gravity-Based Component =					\$ 5,300.00
21. Economic Benefit Component (from line 8):					\$ 2,220.00
22. Gravity-Based Component (from line 20):					\$ 5,300.00
23. Initial Penalty Target Figure: (line 21 plus line 22):					\$ 7,520.00

Pre-2015 days

**9-Feb-13** **2-Nov-15**  
 1  
 997 X1 = 0.908842297 Y1 = \$ 4,816.86

Post-2015 Days

**2-Nov-15** **10-Feb-16**  
 1  
 100 X2 = 0.091157703 Y2 = \$ 862.30  
 includes adjustment factor of 1.2579

Adj Gravity \$ 5,679.16  
 24. Adj Penalty Target Figure: \$ 7,899.16

**Extent of Deviation from Requirement**

<b>Potential for Harm</b>	Major	Moderate	Minor
	1500	1000	500 Major
	750	500	250 Moderate
	200	100	50 Minor