

**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

In the Matter of: Andrew B. Chase, a/k/a  
Andy Chase, Chase Services, Inc., Chase  
Convenience Stores, Inc., and Chase  
Commercial Land Development, Inc.,

Docket Number RCRA-02-2011-7503

RCRA (9006) Appeal No. 13-04

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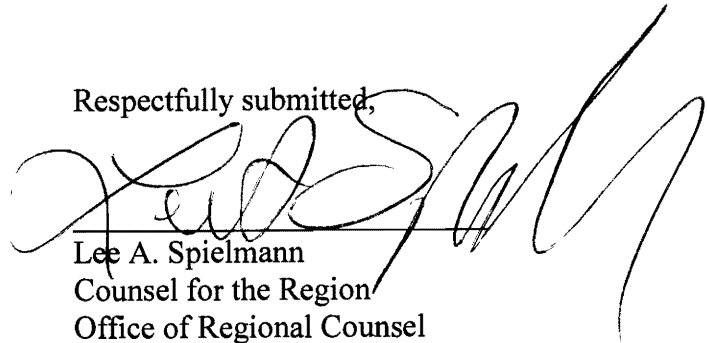
NOTICE OF CROSS-APPEAL

Appellee/cross-appellant (Complainant below), the Director of the Division of Enforcement and Compliance Assistance of the United States Environmental Protection Agency, Region 2 (the "Region"), hereby submits to the Environmental Appeals Board, pursuant to 40 C.F.R. § 22.30(a), this Notice of Cross-Appeal. The Region cross-appeals from the following parts of the June 20, 2013 Initial Decision of the Honorable M. Lisa Buschmann, the Administrative Law Judge in the proceeding below (docket number RCRA-02-2011-7503):

1. Whether the Administrative Law Judge, in assessing a penalty for the violation found in Count 2, erred in construing the requirement that the operation of the automatic line leak detector be annually tested to mean that such testing need only occur once per calendar year?
2. Whether the Administrative Law Judge, in assessing a penalty for the violations found in Counts 3, 4, 5, 6 and 7, erred in utilizing an Environmental Sensitivity Multiplier ("ESM") not found in the Penalty Policy?
3. Whether the Administrative Law Judge, in assessing a penalty for appellants' failure to have annually tested the operation of the automatic line leak detector, erred in assigning in the Penalty Policy's matrix a "MODERATE" potential for harm for Counts 8, 10, 13 and 15?

Dated: November 14, 2013  
New York, New York

Respectfully submitted,



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Docket Number RCRA-02-2011-7503

RCRA (9006) Appeal No. 13-04

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**BRIEF OF APPELLEE/ CROSS-APPELLANT IN OPPOSITION TO  
THE APPEAL OF APPELLANTS AND IN SUPPORT OF CROSS-APPEAL OF  
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 2**

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