

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE FILLED OUT BY ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Benjamin Fields 9/18/09
Name of Contact person Date

in the Reg III, ORC at 215-814-2629
Office Phone number

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS
 Administrative Order/Consent Agreement FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt This is a modification

Name of Person and/or Company/Municipality making the payment
PMIG 1011, LLC; PMIG 1010, LLC; E & L Enterprises, Inc.; Petroleum Marketing Group, Inc.

The Total Dollar Amount of Receivable \$32,000 + interest
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number RCRA-03-2009-0215
The Site-Specific Superfund Acct. Number _____
The Designated Regional/HQ Program Office UST

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
Name of Contact Date

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

- | | |
|---|------------------------------|
| 1. U.S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-002)
Cincinnati, OH 45268

Attn: Lori Weidner | 2. Originating Office (ORC) |
| | 3. Designated Program Office |

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 2. Designated Program Office |
| 3. Regional Hearing Clerk | 3. Regional Counsel |



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

Benjamin D. Fields
Senior Assistant Regional Counsel

Direct Phone: (215) 814-2629
Fax: (215) 814-2603
Mail Code: 3RC30
E-Mail: fields.ben@epa.gov

September 18, 2009

Lori Weidner
U.S. Environmental Protection Agency
Cincinnati Finance Center
26 W. MLK Drive
Cincinnati, OH 45268

Re: Accounts Receivable
Consent Agreement and Final Order
PMIG 1011, LLC
PMIG 1010, LLC
E & C Enterprises, Inc.
Petroleum Marketing Group, Inc.
Docket Number RCRA-03-2009-0215

Dear Ms. Weidner:

Enclosed please find a copy of the Consent Agreement and Final Order, and the Enforcement Accounts Receivable Control Number Form (EARCNF) filed with the Regional Hearing Clerk on September 18, 2009, in settlement of the above referenced subject matter.

Please note that partial payment of the penalty in this matter was paid prior to the final issuance of the Final Order. Such payment may now be released from the "suspense account."

Should you have any question or require further information, please feel free to call me at (215) 814-2629.

Sincerely,

A handwritten signature in black ink, appearing to read "Benjamin D. Fields".

Benjamin D. Fields
Senior Assistant Regional Counsel

Enclosures

03/10/09 PM 3:15

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

In the Matter of:)

PMIG 1011, LLC)
12680 Darby Brooke Court)
Woodbridge, Virginia 22192;)

U.S. EPA Docket Number
RCRA-03-2009-0215

PMIG 1010, LLC)
12680 Darby Brooke Court)
Woodbridge, Virginia 22192;)

Consent Agreement

E & C Enterprises, Inc.)
12680 Darby Brooke Court)
Woodbridge, Virginia 22192;)

and)

Petroleum Marketing Group, Inc.)
12680 Darby Brooke Court)
Woodbridge, Virginia 22192;)

RESPONDENTS)

Gallows Road Texaco)
2919 Gallows Road)
Falls Church, Virginia 22042;)

and)

Leesburg Pike Shell)
6014 Leesburg Pike)
Falls Church, Virginia 22041;)

FACILITIES)

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. On June 30, 2009, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“Complainant” or “EPA”) issued an Administrative Complaint, Compliance Order and Notice of Opportunity for Hearing (“Complaint”) against PMIG 1011, LLC; PMIG 1010, LLC; E & C Enterprises, Inc.; and Petroleum Marketing Group, Inc. (“Respondents”), pursuant to Section 9006(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6991e(a).
2. This Consent Agreement is entered into by Complainant and Respondents in settlement of EPA’s claims against Respondents for civil penalties under Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d), for the violations alleged in the Complaint.
3. For the purposes of this proceeding, Respondents admit the jurisdictional allegations of the Complaint.
4. Respondents neither admit nor deny the Findings of Fact contained in the Complaint, except as provided in Paragraph 3, above.
5. Respondents neither admit nor deny the Conclusions of Law contained in the Complaint, except as provided in Paragraph 3, above.
6. For the purposes of this proceeding only, each Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in the Complaint, and any right to appeal the accompanying Final Order.
7. The settlement agreed to by the parties in this Consent Agreement reflects the desire of the parties to resolve this matter without continued litigation.

8. Respondents consent to the issuance of this Consent Agreement and to the attached Final Order and agree to comply with their terms. Respondents agree not to contest Complainant's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement thereof.

9. This Consent Agreement and Final Order resolve only EPA's claims for civil penalties for the specific violations alleged in the Complaint. EPA reserves the right to commence action against any person, including Respondents, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice.

10. EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Consent Agreement and Final Order, following its filing with the Regional Hearing Clerk. Respondents reserve all available rights and defenses they may have to defend themselves in any such action.

11. Nothing in this Consent Agreement and Final Order shall alter or otherwise affect each Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations.

12. Respondents are aware that the submission of false or misleading information to the United States government may subject it to separate civil and/or criminal liability. Complainant

reserves the right to seek and obtain appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondents to Complainant regarding the matters at issue in the Findings of Fact and Conclusions of Law are false or, in any material respect, inaccurate.

13. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

II. EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

III. CERTIFICATION OF COMPLIANCE

15. As to all relevant provisions of RCRA and the Virginia Authorized UST management program allegedly violated as set forth in the Findings of Fact and Conclusions of Law, above, Respondents certify to EPA that, upon investigation, to the best of each Respondent's knowledge and belief, Respondents are currently in compliance with all such relevant provisions and regulations.

IV. CIVIL PENALTIES

16. Respondents jointly and severally agree to pay a civil penalty in the amount of thirty-three thousand dollars (\$33,000.00), which Respondents agree to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondents' receipt of a true and correct copy of this Consent Agreement and Final Order fully executed by all parties. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this Consent Agreement

and Final Order, Respondents must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondents. Respondents agree to pay the above civil penalty in full plus accrued interest by remitting installment payments in accordance with Paragraph 19, below.

17. Complainant finds that the aforesaid settlement amount is reasonable, based upon a consideration of a number of factors, including, but not limited to, the statutory factors set forth in Section 9006(c)-(e) of RCRA, 42 U.S.C. § 6991e(c)-(e). These factors were applied to the particular facts and circumstances of this case with specific reference to the *U.S. EPA Penalty Guidance For Violations of UST Regulations* (November 1990) and to 40 C.F.R. Part 19. EPA hereby agrees and acknowledges that payment of the civil penalty shall be in full and final satisfaction of all civil claims for penalties which Complainant may have under Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d), for the violations alleged in the Complaint.

18. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.

- a. Interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondents. EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest on the portion of the civil penalty not paid within 30 calendar days will be assessed at the rate of

the United States Treasury tax and loan rate in accordance with 40 C.F.R.

§ 13.11(a). Accordingly, interest payments on the outstanding portion of the civil penalty to be paid in installments as set forth in the payment schedule, to which Respondents agree, are shown in Paragraph 19, below.

- b. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
- c. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
- d. In order to avoid the assessment of administrative costs for overdue debts, as described above, Respondents must remit installment payments for the civil penalty and accrued interest in accordance with the payment schedule set forth in Paragraph 19, below. In order to avoid the assessment of late payment penalty

charges, as described above, Respondents must remit all payments not later than 90 days after they become delinquent.

19. The civil penalty of thirty-three thousand dollars (\$33,000.00) set forth in Paragraph 16, above, shall be paid in five (5) installments with interest at the rate of three percent (3%) per annum on the outstanding principal balance in accordance with the following schedule:

- a. 1st Payment: The first payment in the amount of sixteen-thousand five hundred dollars (\$16,500.00), consisting of a principal payment of \$16,500.00 and an interest payment of \$0.00, has already been transmitted to EPA by Respondents and deposited into a "suspense account" from which Respondents agree such funds will be released to EPA upon entry of the Final Order attached to this Consent Agreement.
- b. 2nd Payment: The second payment in the amount of four thousand one hundred twenty-five dollars (\$4,125.00), consisting of a principal payment of \$4,125.00 and an interest payment of \$0.00, shall be paid within thirty (30) days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondents.
- b. 3rd Payment: The third payment in the amount of four thousand one hundred eighty-six dollars and three cents (\$4,186.03), consisting of a principal payment of \$4,125.00 and an interest payment of \$61.03,

shall be paid within sixty (60) days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondents.

- c. 4th Payment: The fourth payment in the amount of four thousand one hundred forty-five dollars and thirty-four cents (\$4,145.34), consisting of a principal payment of \$4,125.00 and an interest payment of \$20.34, shall be paid within ninety (90) days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondents.
- d. 5th Payment: The fifth and final payment in the amount of four thousand one hundred thirty-five dollars and seventeen cents (\$4,135.17), consisting of a principal payment of \$4,125.00 and an interest payment of \$10.17, shall be paid within one hundred twenty (120) days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondents.

Pursuant to the above schedule, Respondents will remit total principle payments for the civil penalty in the amount of thirty-three thousand dollars (\$33,000.00) and total interest payments in the amount of ninety-one dollars and fifty-four cents (\$91.54).

20. If Respondents fail to make one of the installment payments in accordance with the schedule set forth in Paragraph 19, above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondents shall

***immediately* pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondents shall be jointly and severally liable for and shall pay administrative handling charges and late payment penalty charges as described in Paragraph 18, above, in the event of any such failure or default.**

21. Notwithstanding Respondents' agreement to pay the assessed civil penalty in accordance with Paragraph 19, above, Respondents may pay the entire civil penalty of thirty-three thousand dollars (\$33,000.00) within thirty (30) calendar days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondents and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a)(1), as described in Paragraph 18.a, above. Further, in lieu of any of the payments set forth in the payment schedule in Paragraph 19, above, Respondents may pay the entire remaining principal together with the accrued interest as of the date of the payment.

22. Respondents shall remit the full penalty, or each installment payment for the civil penalty and any interest, administrative fees and late payment penalties, in accordance with Paragraphs 16 through 21, via one of the following methods:

- a. All payments made by check and sent by regular mail (except as noted in Paragraph 22.c., below) shall be addressed to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

The customer service contact for this address is Eric Volck, who may be reached at 513-487-2105

- b. All payments made by check and sent by overnight delivery service (except as noted in Paragraph 22.c., below) shall be addressed to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The U.S. Bank customer service contact for overnight delivery is Natalie Pearson, who may be reached at 314-418-4087.

- c. All payments made by check in any currency drawn on banks with no branches in the United States shall be addressed for delivery to the following address:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- d. All payments made by electronic funds transfer ("EFT") shall be directed to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"

The Federal Reserve customer service contact may be reached at 212-720-5000.

- e. All electronic payments made through the Automated Clearinghouse (“ACH”), also known as Remittance Express (“REX”), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Customer service contact: Jesse White, at 301-887-6548, or REX, 1-866-234-5681

- f. On-line payment option

WWW.PAY.GOV

Enter “sfo 1.1” in the search field. Open and complete the form.

- g. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

23. All payments by Respondents shall include each Respondent’s full name and address and the EPA Docket Number of this Consent Agreement (RCRA-03-2009-0215).

24. At the time of payment, Respondents shall send a notice of such payment, including a copy of the check, EFT authorization or ACH authorization, as appropriate to:

Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Benjamin D. Fields
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

25. Respondents agree not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.

V. PARTIES BOUND

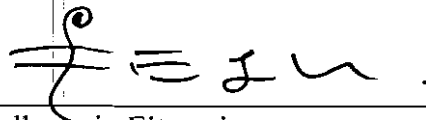
26. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, Respondents, each Respondent's officers and directors (in their official capacity) and each Respondent's successors and assigns. By his signature below, the person signing this Consent Agreement on behalf of each of the Respondents acknowledges that he is fully authorized to enter into this Consent Agreement and to bind each Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

VI. EFFECTIVE DATE

27. The effective date of this Consent Agreement and Final Order is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Judicial Officer or Regional Administrator.

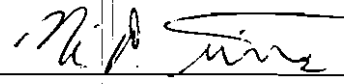
For Respondents PMIG 1011, LLC; PMIG 1010, LLC; E & C Enterprises, Inc.; and Petroleum Marketing Group, Inc:

Date: 8,24,09

By: 
Abdolhossein Ejtemai
Managing Member, PMIG 1011, LLC
Managing Member, PMIG 1010, LLC
President, E & C Enterprises, Inc.
President, Petroleum Marketing Group, Inc.


For Complainant United States Environmental Protection Agency, Region III:

Date: 9/2/09

By: 
Benjamin D. Fields
Senior Assistant Regional Counsel

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

9/11/09
Date

By: 
Abraham Ferdas, Director
Land and Chemicals Division

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:)

PMIG 1011, LLC)
12680 Darby Brooke Court)
Woodbridge, Virginia 22192;)

PMIG 1010, LLC)
12680 Darby Brooke Court)
Woodbridge, Virginia 22192;)

E & C Enterprises, Inc.)
12680 Darby Brooke Court)
Woodbridge, Virginia 22192;)

and)

Petroleum Marketing Group, Inc.)
12680 Darby Brooke Court)
Woodbridge, Virginia 22192;)

RESPONDENTS)

Gallows Road Texaco)
2919 Gallows Road)
Falls Church, Virginia 22042;)

and)

Leesburg Pike Shell)
6014 Leesburg Pike)
Falls Church, Virginia 22041;)

FACILITIES)

Final Order

U.S. EPA Docket Number
RCRA-03-2009-0215

FINAL ORDER

The Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III ("Complainant"), and PMIG 1011, LLC; PMIG 1010, LLC; E & C Enterprises, Inc.; and Petroleum Marketing Group, Inc. ("Respondents"), have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW THEREFORE, pursuant to Section 9006(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6991e(a), and based on representations in the Consent Agreement that the penalty agreed to in the Consent Agreement is based on a consideration of the factors set forth in Section 9006(c)-(e) of RCRA, 42 U.S.C. § 6991e(c)-(e), Respondents PMIG 1011, LLC; PMIG 1010, LLC; E & C Enterprises, Inc.; and Petroleum Marketing Group, Inc. ("Respondents") are hereby ordered to pay a civil penalty of thirty-three thousand dollars (\$33,000.00), as set forth in Section IV of the Consent Agreement, and to comply with the terms and conditions of the Consent Agreement.

The effective date of this document is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Administrator or Regional Judicial Officer.

Date:

9/18/09


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

CERTIFICATE OF SERVICE

I hereby certify that on the date below I hand-delivered the original and one copy of the attached Consent Agreement and Final Order to the Regional Hearing Clerk, and caused true and correct copies to be sent via Federal Express to:

Abdolossein Ejtemai
Managing Member, PMIG 1011
Managing Member, PMIG 1010
President, E & C Enterprises, Inc.
President, Petroleum Marketing Group, Inc.
12680 Darby Brooke Court
Woodbridge, Virginia 22192

9/18/09
Date


Benjamin D. Fields
Senior Assistant Regional Counsel