



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

290 BROADWAY

NEW YORK, NEW YORK 10007-1866

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.II  
2012 DEC 13 A 9 31  
REGIONAL HEARING  
CLERK

DEC 12 2012

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**Article Number: 7005 3110 0000 5949 0280**

Edward Lewis, Esq.  
Fulbright Tower  
1301 McKinney, Suite 5100  
Houston, Texas 77010-3095

Re: In the Matter of: Enterprise Terminals and Storage, LLC. *et al.*  
Docket No. SDWA-02-2011-8902

Dear Mr. Lewis:

Enclosed you will find a fully executed Consent Agreement and Final Order ("CA/FO") which settles the above referenced action. The original and one copy of the CA/FO are being filed with the Regional Hearing Clerk with a copy of this letter.

Please do not hesitate to contact me at (212) 637-3231 should you have any questions. Thank you for your efforts to resolve this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "La X".

Lauren Fischer  
Assistant Regional Counsel

Enclosures

cc: Karen Maples, Regional Hearing Clerk w/ original and copy

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 Broadway  
New York, New York 10007-1866

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II

2012 DEC 13 A 9:31  
REGIONAL HEARING  
CLERK

**IN THE MATTER OF:**

Enterprise Terminals and Storage,  
LLC  
1100 Louisiana Street  
Houston, Texas 77002

Enterprise Products Operating,  
LLC  
1100 Louisiana Street  
Houston, Texas 77002

Respondents.

Proceedings Pursuant to §1423(c)  
of the Safe Drinking Water Act, 42  
U.S.C. §300h-2(c).

**CONSENT AGREEMENT  
AND  
FINAL ORDER**

**DOCKET NO.  
SDWA-02-2011-8902**

**CONSENT AGREEMENT**

The Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency ("EPA"), issued a "Complaint, Notice of Violation, Proposed Administrative Order with Civil Penalty and Opportunity to Request a Hearing" ("Complaint") to Enterprise Terminals and Storage, LLC and Enterprise Products Operating, LLC ("Respondents") on March 31, 2011.

Complainant and Respondents, having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order ("CA/FO") without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby ordered as follows:

*Enterprise Terminals Storage*  
SDWA-02-2011-8902

## I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding for compliance with the Safe Drinking Water Act pursuant to Section 1423(c) of the Safe Drinking Water Act, 42 U.S.C. §300h-2(c).
2. The Complaint alleges violations of the Safe Drinking Water Act Part C – Underground Injection Control, as they pertain to two Class II injection wells, the Overbaugh Philip1 and the Harford Propane Storage 3, located at a facility known as the Harford Mills Terminal at 291 Route 200, Harford, NY 13784 (the “Subject Wells”). The Complaint alleges that the Class II wells are owned and operated by Respondents.
3. This action was public noticed on April 15, 2011.
4. This Consent Agreement and Final Order shall apply to and be binding on Respondents, the business officers, directors, employees, successors and assigns, including but not limited to, subsequent purchasers.
5. Respondents stipulate that EPA has jurisdiction over the subject matter alleged in the Complaint. Respondents waive any defenses Respondents might have as to jurisdiction and venue, and, without admitting or denying the allegations contained in the Complaint, consents to the terms of this Consent Agreement and Final Order.
6. Respondents hereby waive their rights to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint or on any terms of this Consent Agreement and Final Order.

## II. TERMS OF SETTLEMENT

### A. Payment of Civil Penalty

1. Pursuant to Section 1423(c) of the Safe Drinking Water Act, EPA has considered statutory factors, including the seriousness of the violation(s), the economic benefit (if any) resulting from the violation(s), the history of such violation(s), the good-faith efforts to comply with the applicable requirements, and other matters as justice may require.
2. EPA has determined that an appropriate civil penalty to settle this action is in the amount of **twenty thousand dollars (\$20,000.00)**.

3. For the purpose of settlement, Respondents consent to the issuance of this Consent Agreement, and consent to the payment of the civil penalty cited in Paragraph 2 above.
4. Not more than forty five (45) days after the date of issuance of the executed Final Order signed by the Regional Judicial Officer, EPA, Region 2, Respondents shall pay the penalty of **twenty thousand dollars (\$20,000.00)** by cashier's or certified check or by Electronic Fund Transfer ("EFT"). If the payment is paid by check, then the check shall be payable to the "Treasurer, United States of America." The check shall be identified with a notation thereon listing the following: **IN THE MATTER OF ENTERPRISE TERMINALS STORAGE**, and shall bear thereon **Docket Number SDWA-02-2011-8902**. This check shall be mailed to:

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

If Respondents choose to make the payment by EFT, then Respondents shall provide the following information to its remitter bank:

- a. Amount of Payment
- b. SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- c. Account Code for Federal Reserve Bank of New York receiving payment:  
68010727
- d. Federal Reserve Bank of New York ABA routing number: 021030004
- e. Field Tag 4200 of the Fedwire message should read "D68010727  
Environmental Protection Agency"
- f. Name of Respondent: Enterprise Terminals and Storage, LLC and  
Enterprise Products Operating, LLC
- g. Case Number: SDWA-02-2011-8902

Such EFT must be received on or before 45 days after the Effective Date of this CA/FO.

Whether the payment is made by check or by EFT, Respondents shall promptly thereafter furnish reasonable proof that such payment has been made, to both:

Lauren Fischer, Esq.  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866  
(212) 637-3231

and

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

5. Payment must be received on or before forty five (45) calendar days after the date of signature of the Final Order (set forth at the end of this document). The date by which payment must be received shall hereafter be referred to as the "due date".
  - a. Failure to pay the penalty in full according to the above provisions will result in a referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
  - b. Further, if payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of Treasury pursuant to the Debt Collection Act, 31 U.S.C. §3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty will be applied on any principal amount not paid within 90 days of the due date.
  - c. In addition, pursuant to Section 1423(c)(7) of the Safe Drinking Water Act, 42 U.S.C. §300h-2(c)(7), if payment is not received by the due date, a civil action may be commenced in Federal District Court to recover the amount assessed, plus costs, attorneys' fees and interest at currently prevailing rates from the date the order is effective. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.
  - d. Respondents also may be required to pay attorney's fees and costs for collection proceedings in connection with nonpayment.
6. The penalty to be paid is a civil penalty assessed by the EPA and shall not be deductible from the Respondents' federal or state taxes.

### III. GENERAL PROVISIONS

1. Respondents waive any right they may have pursuant to 40 C.F.R. §22.8 or the Safe Drinking Water Act to be present during discussions with, or to be served with and to reply to, any memorandum or communication addressed to the Regional Judicial Officer where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that the Regional Judicial Officer accept this Consent Agreement and issue the accompanying Final Order.
2. Violations of the terms of the Final Order after its effective date or date of final judgment as described in Section 1423(c)(6) of the Act, 42 U.S.C. §300h-2(c)(6), may subject Respondents to further enforcement action, including a civil action for enforcement of the Final Order under Section 1423(b) of the Act, 42 U.S.C. §300h-2(b), and civil and criminal penalties for violations of the compliance terms of the Final Order under Section 1423(b)(1) and (2) of the Act, 42 U.S.C. §300h-2(b)(1) and (2).
3. This Consent Agreement and Final Order shall not relieve Respondents of their obligations to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.
4. Nothing in this Consent Agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this Consent Agreement or of the statutes and regulations upon which this Consent Agreement is based, or for Respondents' violation of any applicable provision of law.
5. Issuance of the Final Order is not an election by EPA to forego any civil or criminal action otherwise authorized under the Act.
6. This Consent Agreement and Final Order constitutes a settlement by EPA of all claims for civil penalties pursuant to the Safe Drinking Water Act for the violations alleged in the Complaint. Nothing in this Consent Agreement and Final Order is intended to, nor shall be construed to, operate in any way to resolve any criminal liability of Respondents. Compliance with this Consent Agreement and Final Order shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondents to comply with such laws and regulations.
7. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms

### III. GENERAL PROVISIONS

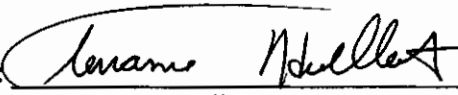
1. Respondents waive any right they may have pursuant to 40 C.F.R. §22.8 or the Safe Drinking Water Act to be present during discussions with, or to be served with and to reply to, any memorandum or communication addressed to the Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that the Administrator accept this Consent Agreement and issue the accompanying Final Order.
2. Violations of the terms of the Final Order after its effective date or date of final judgment as described in Section 1423(c)(6) of the Act, 42 U.S.C. §300h-2(c)(6), may subject Respondents to further enforcement action, including a civil action for enforcement of the Final Order under Section 1423(b) of the Act, 42 U.S.C. §300h-2(b), and civil and criminal penalties for violations of the compliance terms of the Final Order under Section 1423(b)(1) and (2) of the Act, 42 U.S.C. §300h-2(b)(1) and (2).
3. This Consent Agreement and Final Order shall not relieve Respondents of their obligations to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.
4. Nothing in this Consent Agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this Consent Agreement or of the statutes and regulations upon which this Consent Agreement is based, or for Respondents' violation of any applicable provision of law.
5. Issuance of the Final Order is not an election by EPA to forego any civil or criminal action otherwise authorized under the Act.
6. This Consent Agreement and Final Order constitutes a settlement by EPA of all claims for civil penalties pursuant to the Safe Drinking Water Act for the violations alleged in the Complaint. Nothing in this Consent Agreement and Final Order is intended to, nor shall be construed to, operate in any way to resolve any criminal liability of Respondents. Compliance with this Consent Agreement and Final Order shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondents to comply with such laws and regulations.
7. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms

and conditions of this Consent Agreement and to execute and legally bind that party to it.

8. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this Consent Agreement and Final Order.

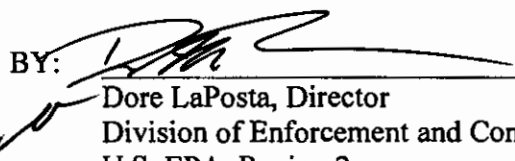


RESPONDENTS:

BY:  DATE: 4/25/12  
Terrance Hurlburt  
Group Senior Vice President  
Enterprise Products Operating, LLC  
and  
Enterprise Terminals and Storage, LLC

*Legal approval  
Siddhi Jenu*

COMPLAINANT:

BY:  DATE: 12/10/12  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistant  
U.S. EPA, Region 2  
290 Broadway, 21st Floor  
New York, New York 10007-1866

#### IV. FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the parties is hereby approved, incorporated herein, and issued as a Final Order. The effective date of this Final Order shall be 30 days after the date of signature.

DATE: December 11, 2012 \_\_\_\_\_ Helen S. Ferrara

HELEN S. FERRARA  
Regional Judicial Officer  
United States Environmental  
Protection Agency - Region 2  
290 Broadway  
New York, New York 10007-1866

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 Broadway  
New York, New York 10007-1866

**IN THE MATTER OF:**

Enterprise Terminals and Storage,  
LLC  
1100 Louisiana Street  
Houston, Texas 77002

Enterprise Products Operating, LLC  
1100 Louisiana Street  
Houston, Texas 77002

Proceedings under Section 1423(c)  
of the Safe Drinking Water Act,  
42 U.S.C. §300h-2(c)

**CONSENT AGREEMENT  
AND  
FINAL ORDER**

**DOCKET NO.  
SDWA-02-2011-8902**

**CERTIFICATE OF SERVICE**

I certify that on Jessalyn Lorenzo, I served the above-cited Consent Agreement  
And Final Order for Compliance, bearing the above referenced docket number, on the  
persons listed below, in the following manner

Original and One Copy

By Hand:

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

Copy by Certified Mail, Return

Receipt Requested:

Edward Lewis, Esq.  
Fulbright Tower  
1301 McKinney, Suite 5100  
Houston Texas 77010-3095

Dated: 12-12-12

Jessalyn Lorenzo

*Enterprise Terminals Storage*  
SDWA-02-2011-8902