

UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY-REGION 7  
2014 APR 16 AM 9:20

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

<b>In the matter of:</b>	)	
	)	
<b>G &amp; P Country Market, Inc.</b>	)	<b>Consent Agreement and Final Order</b>
<b>1204 E. 24-40 Highway</b>	)	
<b>Tonganoxie, Kansas 66086</b>	)	<b>U.S. EPA Docket No.:</b>
	)	<b>RCRA-07-2014-0008</b>
<b>G &amp; S Convenience Store, Inc.,</b>	)	
<b>8537 State Avenue</b>	)	<b>Proceeding under Section 9006</b>
<b>Kansas City, Kansas 66112</b>	)	<b>of the Resource Conservation and</b>
	)	<b>Recovery Act, as amended,</b>
<b>Respondents</b>	)	<b>42 U.S.C. § 6991e</b>
	)	

The United States Environmental Protection Agency (EPA), Region 7 (Complainant) and G & P Country Market, Inc. and G & S Convenience Store, Inc. (Respondents) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules of Practice), 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b) and 22.18(b)(2).

**Jurisdiction**

1. This administrative action is being conducted pursuant to Section 9006, 42 U.S.C. § 6991e, of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984

(collectively “RCRA”), and the Consolidated Rules of Practice.

2. This Consent Agreement and Final Order (CAFO) serves as notice that the EPA has reason to believe that Respondents have violated Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991i, the regulations promulgated thereunder set forth at 40 C.F.R. Part 280 and the authorized regulations of the state of Kansas, at the Respondents’ facilities located within the state of Kansas. Section 9006 of RCRA, 42 U.S.C. § 6991e, authorizes EPA to take enforcement action, including issuing a compliance order and assessing a civil penalty, whenever it is determined that a person is in violation of any requirement of RCRA Subtitle I, EPA’s regulations thereunder, or any regulation of a state underground storage tank (UST) program which has been authorized by EPA.

### **Statutory and Regulatory Framework**

3. Effective July 6, 1994, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the state of Kansas was granted final authorization to administer a state UST management program in lieu of the Federal UST management program. The provisions of the Kansas UST management program, through this final authorization, have become requirements of Subtitle I of RCRA and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. The “Kansas Storage Tank Act”, Kansas Statutes Annotated (KSA) 65-34,100, designates the Kansas Department of Health and Environment as the agency responsible for UST activities and enforcement and promulgating regulations necessary to carry out activities and enforcement. These regulations can be found at Title 28, Chapter 44 of the Kansas Administrative Regulations (hereinafter “K.A.R. 28-44,” followed by

the applicable section of the regulations). The allegations or conclusions set forth in this Complaint refer to the provision's authorized UST regulations of the state of Kansas, which are cited as the basis for EPA's complaint, and the analogous provisions of the Federal UST regulations are cited as parenthetical.

4. EPA has previously given the state of Kansas prior notice of the issuance of this CAFO in accordance with Section 9006(a) of RCRA, 42 U.S.C. § 6991e(a)(2).

5. Section 9006 of RCRA, 42 U.S.C. § 6991e, authorizes EPA to assess a civil penalty of not more than \$10,000 per day against any owner or operator of an UST who fails to comply with, inter alia, any requirement or standard promulgated under Section 9003 of RCRA, 42 U.S.C. § 6991b (40 C.F.R. Part 280) or any requirement or standard of a state UST program that has been approved by EPA pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c. This figure has been adjusted upward for inflation pursuant to the Civil Monetary Penalties Inflation Adjustment Rule, 40 C.F.R. Part 19, so that penalties of up to \$16,000 per day are now authorized for violations of Subtitle I of RCRA that occur after January 12, 2009.

#### **Parties**

6. The Complainant is the Branch Chief, Storage Tanks & Oil Pollution Branch (STOP), Air and Waste Management Division of the EPA, Region 7, as duly delegated from the Administrator of the EPA.

7. The Respondents are G & P Country Market, Inc. and G & S Convenience Store, Inc., each of which is a corporation authorized to do business in the state of Kansas. Each of the Respondents is a closely held corporation with the same individual, Pripat Singh, serving as

president of each of the corporations and with the same individual, Pripat Singh, being the primary shareholder of each of the corporations. Each of the Respondents is a “person” as defined in KSA 65-34,102(k) and Section 9001(5) of RCRA, 42 U.S.C. Section 6991(5).

**Factual Background**

*G & P Country Market, Inc.  
G & P Facility*

8. The facility owned and operated by Respondent G & P Country Market, Inc. (G & P Facility) located at 1204 E. 24-40 Highway, Tonganoxie, Kansas 66086.

9. On or about January 28, 2011, an EPA representative conducted a Compliance Evaluation Inspection at the G & P Facility (hereinafter “the EPA Tonganoxie Inspection”). From before the time of the EPA Tonganoxie Inspection, through the present, Respondent owned and operated the USTs and USTs systems containing gasoline and diesel fuel at the Facility.

10. Currently, and at the time of the EPA Tonganoxie Inspection the G & P Facility had three 6,000 gallon fiberglass tanks containing gasoline (U002, U003, and U004) and one 10,000 fiberglass tank containing diesel (U001). Piping for all USTs is fiberglass. All USTs at the G & P Facility were installed in 1989.

*G & S Convenience Store, Inc.  
G & S Convenience Store Kansas City Facility*

11. A facility owned and operated by Respondent G & S Convenience Store, Inc. is located at 8535 State Avenue, Kansas City, Kansas (G & S Kansas City Facility). Currently, and at the time of the inspection it has been known as H & W Convenience Store.

12. On or about January 28, 2011, an EPA representative conducted a Compliance

Evaluation Inspection at the G & S Kansas City Facility (hereinafter “the EPA Kansas City Inspection”). From before the time of the EPA Kansas City Inspection, through the present, Respondent owned and operated the USTs and USTs systems containing gasoline at the G & S Kansas City Facility.

13. Currently, and at the time of the Kansas City EPA inspection, the G & S Kansas City Facility had two USTs installed in 1976 (U001 and U002). Tank U001 is a 8,000 gallon tank, containing gasoline, that is protected with impressed current cathodic protection. Tank U002 is a 5,000 gallon tank, also containing gasoline, which is protected with impressed current cathodic protection. Piping for Tanks U001 and U002 is fiberglass.

*G & S Convenience Store Osawatomie Facility*

14. A facility owned and operated by Respondent G & S Convenience Store, Inc. is located at 301 Eastgate Drive, Osawatomie, Kansas (G & S Osawatomie Facility). Currently, and at the time of the inspection it has been known as “Quick Stop”.

15. On or about September 13, 2010, an EPA representative conducted a Compliance Evaluation Inspection at the G & S Osawatomie Facility (hereinafter “the EPA Osawatomie Inspection”). From before the time of the EPA Osawatomie Inspection, through the present, Respondent owned and operated the USTs and USTs systems containing gasoline and diesel fuel at the G & S Osawatomie Facility.

16. Currently, and at the time of the EPA Osawatomie Inspection, the G & S Osawatomie Facility had three USTs installed, which were installed in 1976, and a fourth UST which was installed in 2005. Two of the USTs installed in 1976 are 10,000 gallon steel tanks,

containing gasoline, that are protected with impressed current cathodic protection (U001 and U002). The third UST installed in 1976 is a 2,000 gallon steel tank, containing diesel, and is also protected with impressed current (U003). The UST installed in 2005 is a 4,000 gallon fiberglass tank and also contains diesel (U005). Piping for all active USTs installed at the G & S Osawatomie Facility is fiberglass. Another tank (U004) was removed from the site on in 2005.

*G & S Convenience Store Junction City Facility*

17. A facility owned and operated by Respondent G & S Convenience Store, Inc. is located at 813 South Washington, Junction City, Kansas (G & S Junction City Facility). Currently and at the time of the inspection it has been known as “Rohan, Inc.”

18. On or about July 12, 2010, an EPA representative conducted a Compliance Evaluation Inspection at the G & S Junction City Facility (hereinafter “the EPA Junction City Inspection”). From before the time of the EPA Junction City Inspection, through the present, Respondent owned and operated the USTs and USTs systems containing gasoline and diesel fuel at the G & S Junction City Facility.

19. Currently, and at the time of the EPA Junction City Inspection, the G & S Junction City Facility had one UST installed in 1985 and three USTs installed in 1988. The UST installed in 1985 is a 8,000 gallon fiberglass tank that contains gasoline (U002). Two of the USTs installed in 1988 are 4,000 gallon steel tanks, containing diesel, that are protected with sacrificial anodes (U006 and U007). The third UST installed in 1988 is a 10,000 gallon steel tank, containing gasoline, and is also protected with sacrificial anodes (U008). Piping for all active USTs at the Junction City Facility consists of cathodically-protected copper. Tanks U006

and U007 were not being used and were in temporary closure status during the EPA Junction City Inspection. Former tanks at the Junction City Facility, those being U001, U004, U005, were removed in 1988.

20. During each of the EPA inspections at the facilities described above, the inspector observed several violations of RCRA Subtitle I, which are set forth below.

**Violations**

**Count 1**

*G & P Facility*

*Failure to provide adequate line tightness testing system for underground piping system*

21. The allegations of paragraphs above are incorporated herein by reference as though fully set forth at length.

22. Pursuant to K.A.R. 28-44-23(c) and 40 C.F.R. § 280.44(a), an owner and operator of a UST system must conduct an annual test of the operations of the leak detector in accordance with the manufacturer's requirements.

23. At the time of the EPA Inspection, Respondent G & P Country Market, Inc. owned and operated an UST system at the G & P Facility with underground pressurized piping that routinely contained petroleum, a regulated substance as defined by K.S.A. 65-34,102(o) and 40 C.F.R. § 280.12.

24. At the time of the EPA Tonganoxie Inspection, Respondent G & P Country Market, Inc. had failed to complete the required annual function test for the previous year for the G & P Facility in violation of K.A.R. 28-44-23(c) and 40 C.F.R. § 280.44(a).

**Count 2**

*G & S Kansas City Facility*

*Failure to provide adequate line tightness testing system for underground piping system*

25. The allegations of paragraphs above are incorporated herein by reference as though fully set forth at length.
26. Pursuant to K.A.R. 28-44-23(c) and 40 C.F.R. § 280.44(a), an owner and operator of an UST system must conduct an annual test of the operations of the leak detector in accordance with the manufacturer's requirements.
27. At the time of the EPA Kansas City Inspection, Respondent G & S Convenience Store, Inc. owned and operated an UST system at the G & S Kansas City Facility with underground pressurized piping that routinely contained petroleum, a regulated substance as defined by K.S.A. 65-34,102(o) and 40 C.F.R. § 280.12.
28. At the time of the EPA Kansas City Inspection, Respondent G & S Convenience Store, Inc. had failed to complete the required annual function test for the previous year at the G & S Kansas City Facility, in violation of K.A.R. 28-44-23(c) and 40 C.F.R. § 280.44(a).

**Count 3**

*G & S Kansas City Facility*

*Failure to operate and maintain corrosion protection (CP) system*

29. The allegations of paragraphs above are incorporated herein by reference as though fully set forth at length.
30. Pursuant to K.A.R. 28-44-19 and 40 C.F.R. § 280.31(a), all corrosion protection



systems for UST systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contains regulated substances and are in contact with the ground.

31. During the EPA Kansas City Inspection the EPA inspector performed test on the system at the G & S Kansas City Facility and the corrosion protection system was not fully operational and was not providing corrosion protection to the USTs at the G & S Kansas City Facility in violation of K.A.R. 28-44-19 and 40 C.F.R. § 280.31(a).

**Count 4**

*G & S Junction City Facility  
Failure to use any underground piping monitoring method*

32. Complainant hereby incorporates the allegations contained in the paragraphs above, as if fully set forth herein.

33. Pursuant to K.A.R. 28-44-23 and 40 C.F.R. § 280.41(b), an owner and operator must provide a monitoring system for underground pressurized piping that routinely contain regulated substances.

34. At the time of the EPA Junction City Inspection, Respondent G & S Convenience Store, Inc. owned and operated an UST system at the G & S Junction City Facility with underground pressurized piping that routinely contained petroleum, a regulated substance as defined by K.S.A. 65-34,102(o) and 40 C.F.R. § 280.12.

35. At the time of the EPA Junction City Inspection, Respondent G & S Convenience Store, Inc. failed to provide a monitoring system for underground pressurized piping that

routinely contain regulated substances at the G & S Junction City Facility, in violation of K.A.R. 28-44-23 and 40 C.F.R. § 280.41(b).

**Count 5**

*G & S Junction City Facility*

*Failure to provide adequate line leak detector system for underground piping*

36. Complainant hereby incorporates the allegations contained in the paragraphs above, as if fully set forth herein.

37. Pursuant to K.A.R. 28-44-23(c) and 40 C.F.R. § 280.44(a), an owner and operator must provide an adequate line leak detector system for underground pressurized piping that routinely contain regulated substances.

38. At the time of the EPA Junction City Inspection, Respondent G & S Convenience Store, Inc. owned and operated an UST system at the G & S Junction City Facility with underground pressurized piping that routinely contained petroleum, a regulated substance as defined by K.S.A. 65-34,102(o) and 40 C.F.R. § 280.12.

39. At the time of the EPA Inspection, Respondent G & S Convenience Store, Inc. did not have an adequate line leak detector system for its underground pressurized piping at the G & S Junction City Facility, referred to above, in violation of K.A.R. 28-44-23(c) and 40 C.F.R. § 280.44(a).

**Count 6**

*G & S Junction City Facility*

*Failure to provide adequate line tightness testing system for underground piping*

40. The allegations of paragraphs above are incorporated herein by reference as

though fully set forth at length.

41. Pursuant to of K.A.R. 28-44-23(c) and 40 C.F.R. § 280.44(b), an owner and operator of an UST system must conduct an annual test of the operations of the leak detector in accordance with the manufacturer's requirements.

42. At the time of the EPA Junction City Inspection, Respondent G & S Convenience Store, Inc. owned and operated an UST system at the G & S Junction City Facility with underground pressurized piping that routinely contained petroleum, a regulated substance as defined by K.S.A. 65-34,102(o) and 40 C.F.R. § 280.12.

43. At the time of the EPA Junction City Inspection, Respondent G & S Convenience Store, Inc. had failed to complete the required annual function test for the previous year for the G & S Kansas City Facility in violation of K.A.R. 28-44-23(c) and 40 C.F.R. § 280.44(a).

**Count 7**

*G & S Junction City Facility  
Failure to continue operation and maintenance of release deflection  
in a temporarily closed tank system*

44. The allegations of paragraphs above are incorporated herein by reference as though fully set forth at length.

45. Pursuant to K.A.R. 28-26 and 40 C.F.R. § 280.70(a), an owner and operator of an UST system that is temporarily closed must continue operation and maintenance of corrosion protection and leak detection in accordance with in accordance with 40 C.F.R. Part 280.

46. According to records received and maintained by KDHE, Tanks 006 and 007 at the G & S Junction City Facility have been closed since December 21, 2010, and Respondents

have not continued to operate or maintain corrosion protection or leak detection, in accordance with 40 C.F.R. Part 280, with regard to these tanks since the time they were closed.

47. Respondents' failure to operate or maintain corrosion protection or leak detection, in accordance with 40 C.F.R. Part 280, with regard to Tanks 006 and 007 at the G & S Junction City Facility is a violation of K.A.R. 28-26 and 40 C.F.R. § 280.70(a).

### **CONSENT AGREEMENT**

48. Respondents and EPA agree to the terms of this Consent Agreement and Final Order and Respondents agree to comply with the terms of the Final Order portion of this Consent Agreement and Final Order.

49. Respondents admit the jurisdictional allegations of this Consent Agreement and Final Order and agree not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order portion of this Consent Agreement and Final Order set forth below.

50. Respondents neither admit nor deny the factual allegations and legal conclusions set forth in this Consent Agreement and Final Order.

51. Each Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above, and its right to appeal the proposed Final Order portion of the Consent Agreement and Final Order.

52. Respondents and Complainant agree to conciliate the matters set forth in this Consent Agreement and Final Order without the necessity of a formal hearing and to bear their

respective costs and attorney's fees.

53. Nothing contained in the Final Order portion of this Consent Agreement and Final Order shall alter or otherwise affect Respondents' obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

54. This Consent Agreement and Final Order addresses all civil administrative claims for the violations of the authorized regulations of the state of Kansas identified above, and of RCRA Subtitle I identified above. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA Subtitle I or any other applicable law.

55. The effect of settlement described in this CAFO above is conditioned upon the accuracy of both of the Respondents' representations to EPA, as memorialized in this CAFO.

56. Respondents certify that by signing this Consent Agreement and Final Order that to best of each of their knowledge, Respondents' Facilities described in this CAFO are in compliance with all requirements of Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991i *et. seq.* and all regulations promulgated thereunder.

57. The undersigned representative of each of the Respondents certifies that he is fully authorized to enter the terms and conditions of this CAFO and to execute and legally bind the respective Respondent to it.

58. Each of the Respondents agrees that, in settlement of the claims alleged in this CAFO, they shall be jointly responsible for paying, and shall pay together, one civil penalty of Thirteen Thousand Two Hundred Fifty Dollars (\$13,250) as set forth in the Final Order portion of this CAFO.

59. In settlement of this matter, in addition to the civil penalty described above Respondents agree to be jointly responsible for the completion of a Supplemental Environmental Project (SEP), which the parties agree is intended to secure significant environmental and public health benefits. A description of the SEP is attached hereto, marked "Exhibit 1" and is incorporated herein by reference.

60. The total expenditure for the SEP shall be not less than Thirty-Nine Thousand Seven Hundred Fifty Dollars (\$39,750) and the SEP shall be completed no later than 120 days from effective date of the final order. All work required to complete the SEP shall be performed in compliance with all federal, state, and local laws and regulations.

61. Within thirty (30) days of completion of the SEP, Respondents shall submit a SEP Completion Report to EPA, with a copy to the state agency identified below. The SEP Completion Report shall contain the following:

- a. A detailed description of the SEP as implemented;
- b. Itemized costs, documented by copies of purchase orders, receipts or canceled checks; and
- c. The following certification signed by each of the Respondents:

**I certify under penalty of law** that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and

imprisonment.

d. The report shall be directed to the following:

As to EPA:

Michael L. Pomes, Ph.D., L.G.  
Environmental Scientist  
Storage Tanks and Oil Pollution Branch  
EPA Region 7, AWMD/STOP  
11201 Renner Boulevard  
Lenexa, KS 66219.

As to the state of Kansas:

Randy Carlson, Section Chief  
Kansas Storage Tank Section  
1000 SW Jackson, Suite 410  
Topeka, KS 66612

62. Respondents agree to the payment of stipulated penalties as follows:

a. In the event Respondents fail to comply with any of the terms or provisions of this Agreement relating to the performance of the SEP, above, and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP described in this CAFO, Respondents shall be jointly liable for stipulated penalties according to the provisions set forth below:

(1) If the SEP is not completed satisfactorily and timely pursuant to the requirements set forth in this CAFO, Respondents shall be liable for and shall pay a stipulated penalty to the United States in the amount of Thirty-Nine Thousand Seven Hundred Fifty Dollars (\$39,750).

(2) If the SEP is satisfactorily completed, but the Respondents spend less

than Thirty-Nine Thousand Seven Hundred Fifty Dollars (\$39,750) on the SEP, Respondent shall pay as a stipulated penalty to the United States the amount of Thirty-Nine Thousand Seven Hundred Fifty Dollars (\$39,750) minus the amount that Respondents can demonstrate they spent upon the satisfactorily completed SEP.

b. If Respondents fail to timely and completely submit the SEP Completion Report required by this CAFO, Respondents shall be liable for and shall pay a stipulated penalty in the amount of One Hundred Dollars (\$100.00) for each day after the due date until a complete report is submitted.

c. EPA shall determine whether the SEP has been satisfactorily completed and whether the Respondents have made a good faith, timely effort to implement the SEP.

d. Stipulated penalties shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the SEP or other resolution under this CAFO.

e. Respondents shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions set forth in paragraph 1 the Final Order portion of this Consent Agreement and Final Order.

63. Respondents certify that neither of them is required to perform or develop the SEP by any federal, state or local law or regulation; nor is either Respondent required to perform or develop the SEP by agreement, grant or as injunctive relief in this or any other case or to comply with state or local requirements. Each Respondent further certifies that it has not



received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

64. Each Respondent further certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.

65. For federal income tax purposes, Respondents agree that they will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

66. Any public statement, oral or written, in print, film or other media, made by Respondents making reference to the SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the United States Environmental Protection Agency."

67. Respondents understand that failure to timely pay any portion of the civil penalty described in Paragraph 1 of the Final Order below or any portion of a stipulated penalty described in this Consent Agreement and Final Order may result in the commencement of a

civil action against each of them in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the applicable statutory rate on the unpaid balance until such civil or stipulated penalty and any accrued interest are paid in full. A late payment handling charge of \$15 will be imposed after thirty (30) days and an additional \$15 will be charge for each subsequent thirty (30) day period. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a six percent (6%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

68. Payment of the civil penalty as set forth in the Final Order, and completion of the Supplemental Environmental Project (SEP) described herein, full shall resolve all civil and administrative claims for all violations of Section 409 of TSCA, 15 U.S.C. 2689 and 40 C.F.R. Part 745 alleged in this document.

69. Respondents consent to the issuance of this CAFO and consent for the purposes of settlement to the payment of the civil penalty, the performance of the SEP and the payment of any stipulated penalties cited in the preceding paragraphs.

70. Nothing in this CAFO shall be interpreted to require obligation or payment of any funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341; the Non-Appropriated Fund Anti-Deficiency Act, 10 U.S.C. § 2783; or other applicable law.

#### **Effective Date**

71. This CAFO shall be effective upon filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

### **Reservation of Rights**

72. Notwithstanding any other provision of this CAFO, EPA reserves the right to enforce the terms of the Final Order portion of this CAFO by initiating a judicial or administrative action under Section 9006 of RCRA, 42 U.S.C. § 6991e, and to seek penalties against each of the Respondents in an amount not to exceed Thirty-Seven Thousand Five Hundred Dollars (\$37,500) per day per violation pursuant to Section 9006(a)(3) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law.

73. Complainant reserves the right to take enforcement action against Respondents for any future violations of Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991i and its implementing regulations, and to enforce the terms and conditions of this CAFO.

74. Except as expressly provided herein, nothing in this CAFO shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from any of the Respondents' facilities.

75. Notwithstanding any other provisions of the CAFO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the future handling, storage, treatment, transportation, or disposal of solid

waste or hazardous waste at Respondents' facilities may present an imminent and substantial endangerment to human health and the environment.

76. The headings in this CAFO are for convenience of reference only and shall not affect interpretation of this CAFO.

77. The provisions of this CAFO shall be deemed satisfied upon a written determination by Complainant that Respondents have fully implemented the actions required in the Final Order.

### **FINAL ORDER**

Pursuant to the authority of Section 9006 of RCRA, 42 U.S.C. § 6991e, and according to the terms of this CAFO, IT IS HEREBY ORDERED THAT:

#### **A. Payment of Civil Penalty**

1. Within sixty (60) days of the effective date of this CAFO, Respondents shall pay a civil penalty of Thirteen Thousand Two Hundred Fifty Dollars (\$13,250).

2. Payment of the penalty shall be made by cashier or certified check, by wire transfer, or on-line. The Payment shall reference the Docket Number on the check or wire transfer. If made by cashier or certified check, the check shall be made payable to "Treasurer of the United States" and remitted to:

United States Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000.

Wire transfers shall be directed to the Federal Reserve Bank of New York as follows:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read  
“D 68010727 Environmental Protection Agency”

On-line payments are available through the Department of Treasury:

[www.pay.gov](http://www.pay.gov)

Enter “sfo 1.1” in the search field.

Open the form and complete required files.

3. A copy of the check, transfer, or on-line payment confirmation shall simultaneously be sent to the following:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219; and

Raymond C. Bosch, Attorney  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219.

4. No portion of the civil penalty or interest paid by Respondents pursuant to the requirements of this Consent Agreement and Final Order shall be claimed by Respondents as a deduction for federal, state, or local income tax purposes.

### **B. Compliance Actions**

5. Respondents shall take the following actions within the time periods specified, according to the terms and conditions specified below.

6. Beginning 30 days after the effective date of this CAFO, the Respondents shall send monthly monitoring reports to the contact listed in paragraph 10 below. These reports shall consist of either automatic tank gauge continuous monitoring and automatic line monitor reports,

or statistical inventory reconciliation reports, for each facility described in this CAFO. These reports shall be due by the 15<sup>th</sup> day following the completion of the previous month for a total of 12 months.

7. Within 30 days of the effective date of this CAFO, the Respondents shall report to the contact listed in paragraph 10 below, the dates when function tests were last performed on pressure line leak detectors and shall arrange to have subsequent function tests performed on these pressure line leak detectors within 12 months of any previous test dates. Pressure line leak detector test reports shall be sent to the contact listed in paragraph 10 below within 15 days following the completion of these tests.

8. No later than September 9, 2014, Respondents shall perform an impressed cathodic protection test at the G & S Kansas City Facility, and shall submit the report with the test results within 15 days after performing the test to the contact listed in paragraph 10 below.

9. Within 60 days following the effective date of this CAFO, the Respondents shall either place in permanent closure, or return to active service, Tanks U006 and U007 at the G & S Junction City Facility. Documentation of this activity shall be submitted to the EPA contact listed in paragraph 10 below within 10 days after these tanks are placed in permanent closure or returned to active service.

10. The Respondents shall submit all documentation generated to comply with the requirements as set forth in this section of the Final Order to the following address:

Michael L. Pomes, Ph.D., L.G.  
Environmental Scientist  
Storage Tanks and Oil Pollution Branch  
EPA Region 7, AWMD/STOP  
11201 Renner Boulevard  
Lenexa, Kansas 66219  
pomes.michael@epa.gov

### **C. Parties Bound**

11. The Final Order portion of this CAFO shall apply to and be binding upon each of the Respondents and Respondents' agents, successors and/or assigns. Respondents shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondents with respect to matters included herein comply with the terms of this CAFO.

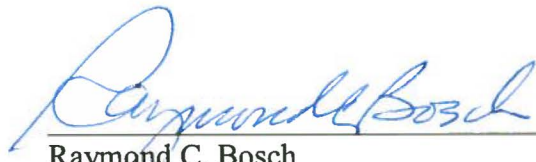
FOR COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

4/14/2014  
Date

  
\_\_\_\_\_  
Margaret Stockdale, Branch Chief  
Storage Tanks & Oil Pollution Branch  
Air and Waste Management Division

April 14, 2014  
Date

  
\_\_\_\_\_  
Raymond C. Bosch  
Assistant Regional Counsel

FOR RESPONDENT,

G & P COUNTRY MARKET, INC.

03-03-14  
Date



FOR RESPONDENT,

G & S CONVENIENCE STORE, INC.

03-03-04  
Date





IT IS SO ORDERED. This Final Order shall become effective upon filing.

4-16-2014  
Date

Karina Borromeo  
Karina Borromeo  
Regional Judicial Officer

## Exhibit 1

Respondents shall spend a minimum of \$39,750 to install an automatic tank gauge, associated probes and wiring, and automatic line monitors for each of the four USTs installed at G & P Country Market, Inc. (KDHE ID 29120-29120) as part of a Supplemental Environmental Project (SEP). Printing and maintaining file of monthly tank and line release detection reports from the proposed automatic tank gauge and automatic line monitors will reduce the likelihood of repeat violation for 40 CFR 280.41(a) by ensuring that the owner or operator will obtain and review tank and line release detection records every 30 days. Additionally, this SEP project is designed to reduce the adverse impact of releasing regulated substances to the environment by encouraging the prompt detection of potential releases with the installation of the proposed automatic tank gauge and automatic line monitors. Costs included in this SEP are electrical work to power up and allow the automatic tank gauge and line monitors to communicate, the installation of new manholes and man ways to allow access and service the release detection equipment, and any concrete work necessitated by the installation of the manholes and man ways.

Within 30 days of the effective date of this CAFO, the respondent shall send to EPA any bids from an UST installation contractor licensed by the Kansas Department of Health and Environment (KDHE) to EPA Region 7. Within 90 days of the effective date of this CAFO, the respondent shall send to EPA Region 7, documentation showing that KDHE has approved the installation of an automatic tank gauge and automatic line monitors at G & P Country Market, Inc. (KDHE ID 29120-29120) on an "*UST Upgrade/Modification Application*" form. Within 120 days of the effective date of this CAFO, the respondent shall send to EPA Region 7 documentation showing the completion of the approved upgrade on an "*Underground Storage Tank Compliance Verification*" form. For the next 12 whole calendar months after the installation of the automatic tank gauge and automatic line monitors, the respondent shall send to EPA Region 7 copies of automatic tank gauge and line monitoring reports within 15 days of the close of the previous calendar month.

IN THE MATTER OF G & P Country Market, Inc. And G & S Convenience Store, Inc., Respondents  
Docket No. RCRA-07-2014-0008

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy emailed to Attorney for Complainant:

[bosch.raymond@epa.gov](mailto:bosch.raymond@epa.gov)

Copy by First Class Mail to Respondent:

J. Donald Lysaught, Jr.  
Attorney at Law  
Evans and Mullinix, P.A.  
7225 Renner Road, Suite 200  
Shawnee, Kansas 66217

Dated: 4/16/14



Kathy Robinson  
Hearing Clerk, Region 7