

program in lieu of the federal UST program (Subtitle I of RCRA, 42 U.S.C. § 6991 *et seq.*)

1.4. The State of Washington's authorized UST program is set forth in the Revised Code of Washington ("RCW") Chapter 90.76 and its implementing regulations are set forth in the Washington Administrative Code ("WAC"), Chapter 173-360.

1.5. EPA has given Washington prior notice of this enforcement action in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

1.6. Pursuant to Section 9006(d) of RCRA and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA hereby issues, and Alok Mehra, Hardev Singh, and Two Good Brothers LLC ("Respondents") agree to issuance of, the Final Order contained in Part V of this CAFO.

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this CAFO commences this proceeding, which will conclude when the Final Order contained in Part V of this CAFO becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 ("Complainant") has been delegated the authority to sign consent agreements between EPA and the party against whom a penalty is proposed to be assessed pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e.

2.3. Part III of this CAFO contains a concise statement of the factual and legal basis for the alleged violations of RCRA and the implementing regulations that Respondents are alleged to have violated.

III. ALLEGATIONS

3.1. Respondents are “person(s)” as that term is defined in WAC 173-360-120.

3.2. Respondents are the “operator(s),” of “underground storage tank(s)” and “UST system(s)” as those terms are defined in WAC 173-360-120, at Border Stop Market located at 424 Long Avenue, Kelso, Washington (the “Facility”).

3.3. The Facility has four tanks, Tanks #1, #2, #3, and #4.

3.4. Tanks #1, #2, and #3 routinely contain petroleum and Tank #4 routinely contains diesel.

3.5. Diesel and petroleum are “regulated substance(s),” as that term is defined in WAC 173-360-120.

3.6. Tanks #1, #2, #3, and #4 are “underground storage tank(s)” as that term is defined in WAC 173-360-120.

3.7. Tanks #1 and #2 are manifolded and make-up one “UST system” as that term is defined in WAC 173-360-120. Tanks #3 and #4 are each a single UST system, so there are three UST systems at the Facility.

3.8. The capacity of each of the Facility’s UST systems is greater than 110 gallons.

Failure to Conduct Release Detection for USTs

3.9. WAC 173-360-335(2)(a) provides that an owner or operator of an UST system must monitor each tank at least every 30 days to detect releases using the methods described in WAC 173-360-345(6)(e) through (j).

3.10. Respondents failed to conduct monthly release detection monitoring for the three UST systems from at least March 17, 2010 through January 15, 2013, in violation of WAC 173-360-335(2)(a).

Failure to Conduct Release Detection for Piping

3.11. WAC 173-360-350(3)(a) requires the owners and operators of pressurized lines equipped with an automatic line leak detector (ALLD) to conduct an annual test of the operation of the ALLD in accordance with the manufacturer's requirements.

3.12. WAC 173-360-350(2)(a)(ii) requires the owners and operators of pressurized lines to have an annual line tightness test conducted by a certified UST supervisor in accordance with subsection (3)(b) or have monthly monitoring conducted in accordance subsection (3)(c).

3.13. The lines associated with the three UST systems are pressurized and equipped with an ALLD.

3.14. Respondents failed to conduct an ALLD test for the pressurized lines associated with the three UST systems from at least March 29, 2011 through January 15, 2013, in violation of WAC 173-360-350(3)(a).

3.15. Respondents failed to conduct an annual line tightness test or conduct monthly monitoring for the pressurized lines associated with the three UST systems from at least March 29, 2011 through January 15, 2013, in violation of WAC 173-360-350(2)(a)(ii).

IV. CONSENT AGREEMENT

4.1. Respondents admit the jurisdictional allegations contained in Part I of this CAFO.

4.2. Respondents neither admit nor deny the specific factual allegations contained in Part III of this CAFO.

4.3. Respondents represent that they are duly authorized to execute this CAFO and that the party signing this CAFO on their behalf is duly authorized to bind Respondents to the terms of this CAFO.

4.4. Pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, taking into account the seriousness of the violation, Respondents' good faith efforts to comply, and EPA's analysis of Respondents' ability to pay, EPA and Respondents agree that an appropriate penalty to settle this action is FOUR THOUSAND EIGHT HUNDRED THIRTY-FIFTY DOLLARS (\$4,835).

4.5. Respondents consent to the issuance of the Final Order in Part V below and to payment of the civil penalty cited in the foregoing paragraph plus interest in the amount of THIRTY-EIGHT DOLLARS (\$38) in accordance with the schedule set forth below.

4.5.1 Within 30 days of the effective date of the Final Order, Respondents shall make an initial payment of \$1,000.

4.5.2 Within six (6) months of the effective date of the Final Order, Respondents shall make a second payment of \$2,000.

4.5.3 Within 12 months of the effective date of the Final Order, Respondents shall make a third and final payment of \$1,873 (\$1,835 plus \$38 interest).

4.6. Each payment under this CAFO shall be made by cashier's check or certified check, payable to the order of "Treasurer, United States of America" and shall be delivered to the following address:

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

Respondents must note on each check the title and docket number of this case.

Respondents may also make their penalty payments by wire transfer or electronically in accordance with instructions provided by EPA, upon request.

4.7. Respondents must serve photocopies of each check on the Regional Hearing Clerk and EPA at the following two addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900, Mail Stop ORC-158
Seattle, Washington 98101-3140

Anne Christopher
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900, Mail Stop OCE-082
Seattle, Washington 98101-3140

4.8. If Respondents fail to pay the penalty assessed in this CAFO by the due dates set forth in Paragraph 4.5 above, the entire unpaid balance of the penalty and accrued interest shall become immediately due and owing. Such a failure may also subject Respondents to an administrative action to collect payment under the federal Debt Collection Act of 1982, as amended, or to a civil action to collect the assessed penalty plus interest, handling charges, and nonpayment penalties as set forth below.

4.8.1. Interest. Any unpaid portion of the assessed penalty shall bear interest at the rate established by the Secretary of the Treasury pursuant to

31 U.S.C. § 3717(a)(1) from the effective date of the Final Order set forth in Part V, provided however, that no nonpayment interest shall be payable on any portion of the assessed penalty that is paid in accordance with the deadline established in Paragraph 4.5.

4.8.2. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the assessed or stipulated penalty is more than 30 days past due.

4.8.3. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the assessed or stipulated penalty that is more than 90 days past due, which nonpayment penalty shall be calculated as of the day the underlying penalty first becomes past due.

4.9. The penalty described in Paragraphs 4.4 and 4.5 of this CAFO, including any additional costs incurred under Paragraph 4.8, above, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.10. Each party shall bear its own fees and costs in bringing or defending this action.

4.11. Respondents expressly waive any right to contest the allegations and waive any right to appeal or seek judicial review of the Final Order set forth in Part V.

4.12. The provisions of this CAFO shall bind Respondents and their agents, servants, employees, successors, and assigns.

4.13. Respondents authorize Alok Mehra to accept service of this CAFO on each of their behalf.

4.14. The above provisions are STIPULATED AND AGREED upon by Respondents and EPA Region 10.

DATED:

FOR RESPONDENTS:

8/20/13

Alok Mehra
ALOK MEHRA

8/20/13

Hardev Singh
HARDEV SINGH

8/20/13

Alok Mehra
ALOK MEHRA, Member
TWO GOOD BROTHERS LLC

DATED:

FOR COMPLAINANT:

8/27/13

Edward J. Kowalski
EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement
EPA Region 10

V. FINAL ORDER

5.1. The terms of the foregoing Parts I-IV are ratified and incorporated by reference into this Final Order. Respondents are ordered to comply with the terms of the settlement.

5.2. Based on the findings contained in the Consent Agreement, Respondents are also ordered to comply with the following requirements pursuant to Section 9006(a) of RCRA, 42 U.S.C. § 6991e(a):

5.2.1. Respondents shall continue to comply with the release detection requirements in WAC 173-360-335(2)(a) for the USTs at the Facility.

5.2.2. If they have not yet been provided to EPA, Respondents shall provide copies of the statistical inventory report (SIR) records for May, June and July 2013, within 30 days of the effective date of this Final Order.

5.2.3. Respondents shall continue to comply with the release detection requirements in WAC 173-360-350(3)(a) and WAC 173-360-350(2)(a)(ii) for the piping associated with the USTs at the Facility.

5.2.4. Respondents shall have line tightness testing and automatic line leak detector testing conducted on the piping associated with the USTs at the Facility by January 2014, and provide copies of the results of such testing to EPA within 30 days of the date the testing is conducted.

5.3. Respondents shall provide compliance documentation required to the following address:

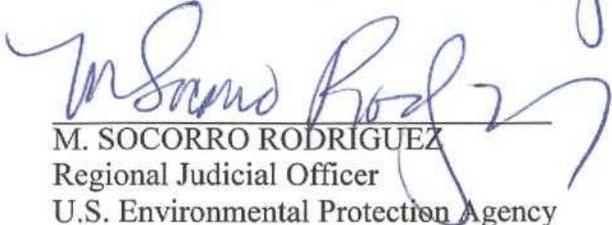
Anne Christopher
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900, Mail Stop OCE-082
Seattle, Washington 98101-3140

5.4. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to RCRA for the violations and facts alleged in the Consent Agreement above. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other

equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondents' obligations to comply with all applicable provisions of RCRA and regulations and permits issued thereunder.

5.5. This Final Order shall become effective upon filing.

SO ORDERED this 29th day of August, 2013


M. SOCORRO RODRIGUEZ
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 10

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in **In the Matter of: Alok Mehra, Hardev Singh, and Two Good Brothers LLC, DOCKET NO. RCRA 10-2013-0150** was filed with the Regional Hearing Clerk and served on the addresses in the following manner on the date specified below:

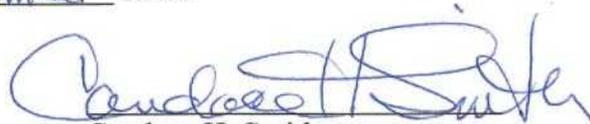
The undersigned certifies that a true and correct electronic copy of the document was delivered to:

Deborah Hilsman
Assistant Regional Counsel
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900, Mail Stop ORC-158
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified mail/return receipt to:

Alok Mehra, Member and Registered Agent
Two Good Brothers LLC
424 Long Avenue
Kelso, WA 98626

DATED this 3rd day of September 2013.



Candace H. Smith
Regional Hearing Clerk
EPA Region 10