

U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA), REGION VII
901 N. 5th Street, Kansas City, Kansas 66101

UNDERGROUND STORAGE TANK (UST) FIELD CITATION FORM FOR EXPEDITED SETTLEMENT DOCKET NO. RCRA-07-2011-0021

PART I: INSPECTION SUMMARY

On: July 19, 2010
 (Date of Inspection)

At: DJ's (NE State ID #4853)
 (Facility Name and Identification Number)

Address: 6818 South 13th Street
Omaha, NE 68107

Nikki Bloomquist
 (Name of On-site Representative if not the Owner or Operator)

Name and address of the UST Owner or Operator (circle which applies).

Name: John Vernazi

Address: 6818 South 13th Street
Omaha, NE 68107

A duly designated officer, employee, or representative of the EPA or a duly designated officer or employee of the State or Tribe inspected this facility. EPA has reviewed the inspection report and other relevant materials and has identified the following violation(s) of the UST regulations promulgated or approved by EPA under Subtitle I of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. § 6991 et seq.).

1. Violation: Failure to ensure proper operation of cathodic protection system.

Failure to perform the 3 year test for the cathodic protection system. Cathodic protection systems need to be tested 6 months after installation and at least every three years thereafter for proper operation. *Done Enclosed*

Cite: 40 CFR § 280.31(b) Proposed Penalty: \$ 210.00

2. Violation: Failure to monitor tanks at least every 30 days. Tanks must be monitored at least every 30 days for releases using one of the methods listed in § 280.43. ATG was not operating at the time of the inspection. *Enclosed*

Cite: 40 CFR § 280.41(a) Proposed Penalty: \$ 420.00

Violation: Failure to provide adequate testing for piping system. The required annual function test (FT) on the line leak detector (LLD) has not been performed in the past year.

Cite: 40 CFR § 280.44(a) Proposed Penalty: \$ 210.00

3. Violation: Failure to perform annual line tightness test or perform monthly monitoring of pressurized piping.

Cite: 40 CFR § 280.41(b)(1)(ii) Proposed Penalty: \$ \$210.00

PROPOSED PENALTY TOTAL: \$ 1050.00

EPA finds the Owner or Operator in violation of the above referenced UST regulations.

Margaret S. [Signature]
 Signature of Authorized Officer or Employee of EPA) Date: 9/29/2011

PART II: SETTLEMENT AGREEMENT/COMPLIANCE ORDER

A. Settlement Agreement: The Owner or Operator by signing this Settlement Agreement (or by having an authorized representative sign it) agrees to settle the violations identified in Part I, subject to the following terms and conditions:

The Owner or Operator certifies, subject to civil and criminal penalties for making a false submission to the U. S. Government, that he or she has corrected the violations, submitted true and accurate documentation of their correction, and submitted payment to the U.S. Treasury for the amount of \$ 1050.00 in payment of the full proposed penalty amount, as described in Part I of this Form.

The Owner or Operator agrees to comply with the terms of the Compliance Order in Part II.B. Without admitting liability for the violations cited in Part I, the Owner or Operator signing below waives any objections to EPA's jurisdiction with respect to the Compliance Order and this Settlement Agreement, and consents to EPA's final approval of this Settlement Agreement without further notice. The Owner or Operator waives the opportunity for a public hearing pursuant to RCRA section 9006.

Once EPA signs the Settlement Agreement, EPA will take no further enforcement action against the Owner or Operator for the civil violations described in Part I, provided the violations have been timely corrected and the penalty has been paid. EPA does not waive its right to enforce against the Owner or Operator for any other violations not described in Part I and violations of the UST requirements or other requirements listed in Part I that were not corrected in a timely manner.

This Settlement Agreement and Compliance Order will become effective once signed by EPA and is binding on EPA and the Owner or Operator upon signature by both parties. Final approval of the Settlement Agreement and Compliance Order is in the sole discretion of the Regional Administrator, Region 7, EPA, or his or her authorized delegate. Upon final approval, EPA shall mail a copy of this document to the Owner or Operator signing below.

SIGNATURE BY OWNER, OPERATOR, OR AUTHORIZED REPRESENTATIVE:

Name (print): John Vernazi
 Title (print): Owner
 Signature: *[Signature]* Date: 9/29/11

B. Compliance Order: This Compliance Order is issued under the authority of RCRA section 9006 to resolve the civil violations identified in Part I. The Owner or Operator is ordered to correct the violations, submit true and accurate documentation that the violations were corrected, and pay the total penalty amount listed in Part I of this Form. This Compliance Order shall become final and enforceable only upon signature by an EPA official with the authority to sign this document.

SIGNATURE BY EPA APPROVING THE SETTLEMENT AGREEMENT AND COMPLIANCE ORDER:

Name (print): Robert L. Patrick
 Title (print): Regional Judicial Officer
 Signature: *[Signature]* Date: Sept 29, 2011

Notes: # 3 + 4 2s Leak Test
It will be done
on Monday 9-26-11
will either fax or mail copy
when done

IN THE MATTER OF DJ's, Respondent
Docket No. RCRA-07-2011-0021

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Underground Storage Tank (USE) Field Citation Form for Expedited Settlement was sent this day in the following manner to the addressees:

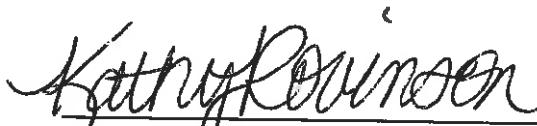
Copy hand delivered to
Attorney for Complainant:

Raymond C. Bosch
Assistant Regional Counsel
Region 7
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

John Vernazi, Owner
DJ's
6818 South 13th Street
Omaha, Nebraska 68107

Dated: 9/29/11



Kathy Robinson
Hearing Clerk, Region 7