

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

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In the Matter of: :
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In the Matter of County of :
Monmouth, New Jersey, : CONSENT AGREEMENT AND
: FINAL ORDER
: :
Respondent. :
: : Docket No. RCRA-02-2015-7501
: :
Proceeding Under Section :
9006 of the Solid Waste :
Disposal Act, as amended. :
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U.S. Environmental
Protection Agency-Reg 2
2015 SEP 22 AM 10:44
REGIONAL HEARING
CLERK

PRELIMINARY STATEMENT

This administrative proceeding was instituted pursuant to Section 9006 of the Solid Waste Disposal Act, as amended by various laws including the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984 (“HSWA”), 42 U.S.C. § 6901 *et seq.* (collectively referred to as “RCRA” or the “Act”).

The Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency, Region 2 (“EPA” or “Complainant”) issued a “Complaint, Compliance Order, and Notice of Opportunity for Hearing” to County of Monmouth, New Jersey (hereinafter “Monmouth” or “Respondent”) on March 31, 2015.

The Complaint alleged violations of Subtitle I of the Act and the regulations promulgated pursuant to the Act, codified in Volume 40 of the Code of Federal Regulations (“C.F.R.”) Part 280, applicable to Respondent’s underground storage tanks (“UST”s).

By entering into this Consent Agreement and Final Order (“CA/FO”) pursuant to 40 C.F.R. § 22.18, the parties agree that settlement of this matter upon the terms set forth in this CA/FO is an appropriate means of resolving this case without further litigation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is County of Monmouth, New Jersey.
2. Respondent is a "person" as that term is defined Section 9001(6) of RCRA, 42 U.S.C. § 6991(6), and 40 C.F.R. § 280.12.

3. At all relevant times herein, Respondent was an “owner” and an “operator” of multiple “underground storage tanks” (“UST”) or “UST systems” as those terms are defined in Section 9001 of the Act, 42 U.S.C. § 6991, and 40 C.F.R. § 280.12.

4. Respondent’s UST systems that were the focus of the Complaint are or were located at:

- a) Monmouth County Highway District #8, 1621 Union Ave., Hazlet, NJ
- b) Monmouth County Highway District #3 + 6, 1180 Pine Brook Road, Tinton Falls, NJ. (Note, after EPA’s inspection the name of this facility was changed to Monmouth County Highway District #3.)
- c) Monmouth County Highway District #5, 383 Cranberry Road, Howell, NJ

5. Pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, an authorized representative of the EPA inspected Respondent’s six UST systems located at the three facilities specified above, on December 9 and 10, 2013, in order to determine Respondent’s compliance with the Act and 40 C.F.R. Part 280.

6. EPA sent RCRA § 9005 Information Request Letters (hereinafter “IRLs”) in order to determine Monmouth’s compliance with the requirements of the Act and 40 C.F.R. Part 280 pertaining to the underground storage tanks at the facilities specified in paragraph 4, above. These IRLs were sent, respectively:

- a) March 10, 2014, seeking information on “Federally Regulated Underground Storage Tanks (USTs) Owned/Operated by Monmouth County or affiliates”;
- b) September 18, 2014, seeking follow-up information on “Federally Regulated Underground Storage Tanks (USTs) Owned/Operated by Monmouth County or affiliates).”

7. Respondent’s response to the March 10, 2014 IRL referenced in paragraph number 6(a) was provided by mail on or about April 8, 2014. Respondent’s response to the September 18, 2014 IRL referenced in paragraph number 6(b) was provided by e-mail on or about October 31, 2014 with a “certification of answers” for the October 31, 2014 IRL response provided by e-mail on November 7, 2014.

8. In Respondent’s April 8, 2014 response to EPA’s March 10, 2014 IRL and in its October 31, 2014 response to EPA’s September 18, 2014 IRL, Monmouth stated that it had owned the UST systems at the three facilities subject to this action (as specified in paragraph 4, above) and that as of the date of its response, Respondent was the owner and the operator of the USTs at the three facilities.

9. After a review of Respondent’s response to the IRLs, and based on the EPA inspections of Respondent’s facilities, EPA determined that the UST systems at the facilities specified in paragraph 4, above, were not in compliance with 40 C.F.R. §§ 280.34(b), 280.34(c), 280.41(a) and 280.45(b).

- a. At Monmouth County Highway District #8, Respondent failed to conduct

