



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
2013 APR -2 A 10:44
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CERTIFIED MAIL/RETURN RECEIPT

Robert R. Tyson, Esq.
BOND, SCHOENECK & KING,
One Lincoln Center
Syracuse, NY 13202-1355

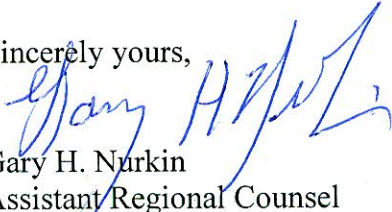
Re: United Refining Company Docket No. RCRA-02-2012-7504

Dear Mr. Tyson:

Enclosed is a copy of the Consent Agreement and Final Order ("CA/FO") in the above referenced proceeding signed by the Regional Administrator of the U.S. Environmental Protection Agency.

Please note that payment is due within forty-five (45) days of signature of the Final Order by the Regional Administrator. Please arrange for payment of this penalty according to the instructions given in that Order.

Sincerely yours,


Gary H. Nurkin
Assistant Regional Counsel

cc: Russ Brauksieck, Chief
Facility Compliance Section
NYSDEC
625 Broadway- 11th Floor
Albany, New York 12233

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
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REGIONAL HEARING
CLERK

-----X
In the Matter of :
 :
United Refining Company : **CONSENT AGREEMENT/ FINAL ORDER**
Respondent. : Docket No. RCRA-02-2012-7504
 :
Proceeding Under Section 9006 :
of the Solid Waste Disposal Act, :
as amended :
-----X

PRELIMINARY STATEMENT

This is a civil administrative proceeding instituted pursuant to Section 9006 of the Solid Waste Disposal Act, as amended, 42 U.S.C. §6901 et seq. (hereinafter referred to as the "Act").

Section 9006 of RCRA, 42 U.S.C. § 6991(e), authorizes the Administrator to enforce violations of the Act and the regulations promulgated or authorized pursuant to it. United Refining Company ("United") has been the owner and operator of six service stations situated in Rochester, Dunkirk, Westfield, Jamestown ("Forest Avenue" and "North Main Street Extension"), and Fredonia, in New York State. EPA issued a Complaint on September 25, 2012 alleging that Respondent, United violated at these stations various requirements of RCRA and regulations relating to the technical standards and corrective action requirements for owners and operators of underground storage tanks ("USTs").

EPA and United have subsequently engaged in settlement discussions with respect to the violations alleged in the aforementioned Complaint. United, in these discussions, has objected to the methods used by EPA to calculate its proposed penalty. Nevertheless, both the Complainant, the Director of EPA Region 2's Division of Enforcement and Compliance Assistance, and the Respondent, United, have agreed that entering into this Consent Agreement/Final Order ("CA/FO") is an appropriate means of resolving the alleged noncompliance with RCRA requirements that EPA believes existed at the six service stations referenced above without further litigation or other administrative action.

This CA/FO is being issued pursuant to, and under the authority of, 40 C.F.R. § 22.18(b). No adjudicated findings of fact or conclusions of law have been made. Respondent neither admits nor denies the Findings of Fact and Conclusions of Law set forth below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is United Refining Company.

2. Respondent is a corporation organized pursuant to the laws of the State of Pennsylvania and is doing business in New York.
3. Respondent is a "person" within the meaning of Section 9001(5) of the Act, 42 U.S.C. § 6991(5), and 40 C.F.R. § 280.12.
4. Respondent was and is the "owner" and "operator" of USTs" as those terms are defined in Section 9001 of the Act, 42 U.S.C. §6991, and in 40 C.F.R. § 280.12.
5. Respondent has owned and operated and continues to own and operate USTs located at the following service stations in New York State:
 - Kwik Fill-M0332-332 service station, situated at 2271 Culver Road, Rochester, New York 14609
 - Kwik Fill-M0150-096 service station, situated at 769 Central Avenue, Dunkirk, New York 14048
 - Kwik Fill-M0034-082 service station, situated at 7630 East Main Road, Westfield, New York 14787
 - Kwik Fill M0312-312 service station, situated at 342 Forest Avenue, Jamestown, New York 14701
 - Kwik Fill M0380-380 service station, situated at 10419 Bennett Road, Fredonia, New York 14063
 - Kwik Fill M0395-395 service station, situated at 2930 North Main Street Extension, Jamestown, New York 14701
6. Pursuant to 40 C.F.R. § 280.12, EPA is the "implementing agency" responsible for enforcing the requirements of the Act and the regulations promulgated pursuant thereto which are the subject of this case.
7. Pursuant to Sections 2002, 9002, and 9003 of the Act, 42 U.S.C. §§ 6912, 6991a, and 6991b, EPA promulgated rules setting forth requirements applicable to owners and operators of UST systems, set forth at 40 C.F.R. Part 280.
8. Forty C.F.R. § 280.12 defines an "underground storage tank or UST" as "any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground."

