

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY, REGION 2

290 Broadway

New York, New York 10007

IN THE MATTER OF:

New Hamburg Terminal Corp.
Morgan Fuel & Heating Co., Inc./Bottini Fuel
2785 West Main St.
Wappingers Falls, NY 12590

Respondent

Proceeding pursuant to Section 311(b)(6) of the
Clean Water Act, 33 U.S.C. § 1321(b)(6) for
FRP Violations

**INFORMATIVE MOTION TO
WITHDRAW COMPLAINT**

DOCKET NO.

CWA-02-2009-3809

U.S. Environmental Protection Agency
2016 SEP 16 PM 12:46
REGIONAL ADMINISTRATOR

INFORMATIVE MOTION TO WITHDRAW THE COMPLAINT

The Administrative Complaint (“Complaint”) in this matter was issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 311(b)(6)(B)(ii) of the Clean Water Act (“Act”), 33 U.S.C. § 1321(b)(6)(B)(ii). The Administrator has delegated the authority to the Regional Administrator of EPA, Region 2, who in turn has delegated it to the Director, Emergency and Remedial Response Division (“ERRD”) of EPA, Region 2, the Complainant in this matter.

The Complaint alleged that New Hamburg Terminal Corp. and Morgan Fuel and Heating Company/Bottini Fuel (“Respondent”) was in violation of the Act for having failed or refused to comply with regulations issued under Section 311(j) of the Act, 33 U.S.C. § 1321(j), and found at 40 C.F.R. Part 112, to which Respondent was subject at its facility located at 2785 West Main Street, Wappingers Falls,

New York 12590 ("Facility"). Specifically, Respondent failed to prepare and implement a facility response plan ("FRP") by January 1997, which subsequently includes failure to prepare and implement discharge prevention meetings, training sessions, and drills/exercises. The Complaint proposed to assess a penalty of one hundred and fifty four thousand two hundred dollars (\$154,200.00) and required compliance with the regulations found at 40 C.F.R. Part 112.

Since the issuance of the Complaint, there was an additional inspection on June 22, 2016. During this inspection, it was discovered that all the deficiencies noted in the prior inspection had been corrected. As such, the Complainant hereby withdraws, by right and without prejudice, the Complaint, Docket No. CWA-02-2009-3809. This action is taken pursuant to 40 C.F.R. § 22.14(d) of the Consolidated Rules of Practice.

Respectfully,



Walter E. Mugdan, Director
Emergency and Remedial
Response Division
U.S. EPA, Region 2
290 Broadway
New York, New York 10007-1866

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CERTIFICATE OF SERVICE

I certify that, on the date noted below, I caused to be mailed a copy of the foregoing "**Motion to Withdraw the Complaint**" to the following persons, at the addresses listed below and in the following manner:

Copy by Hand:

Original and Copy by Hand:

Copy by Certified Mail

Return Receipt Requested:

Dated:

9/16/16

Yone Mj...