



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF: DM-7J

CERTIFIED MAIL #: 7001 0320 0006 0197 9766
RETURN RECEIPT REQUESTED

Suburban Asphalt
11251 West Forest Home Avenue
Franklin, Wisconsin 53132
Attention: Terry Buss

Re: Suburban Asphalt – Field Citation

Dear Mr. Buss:

On May 8, 2007, the United States Environmental Protection Agency (U.S. EPA) issued a Notice of Violation and Compliance Order/Settlement Agreement (Field Citation) concerning two (2) alleged violations found at Suburban Asphalt, in Franklin, Wisconsin. Information was provided, to the U.S. EPA, which indicated one (1) of the violations had not occurred and that Field Citation was withdrawn. On May 29, 2007, the U.S. EPA reissued a Field Citation concerning the one (1) remaining violation.

This is to inform you that we received your signed original copy of the Settlement Agreement, dated June 20, 2007, and the check for \$300.00 in penalties. We have reviewed the original copy of the Settlement Agreement where you have indicated that the violations of the underground storage tanks regulations for which you were cited have been corrected.

The Settlement Agreement states that it is effective upon U.S. EPA's final approval. This is to inform you that I have enclosed a signed and dated copy of the approved Settlement Agreement. The original Settlement Agreement will remain in the U.S. EPA files. We also have accepted and processed your check as part of the settlement process. If you have any further questions, please feel free to contact Mark Restaino, of my staff, at (312) 886-0394.

Sincerely,

Willie H. Harris, P. E.
Chief, Program Management Branch
Waste, Pesticides and Toxics Division

Enclosures

cc: P. Albert – Wisconsin Department of Commerce

Docket #: RUST-05-2007-0011

BD#: 27507064011

bcc: Case Officer Enforcement File
U.S. EPA Lock Box
T. Kenney
L. Nordmeyer - WDOC

**United States Environmental Protection Agency
Region 5 - UNDERGROUND STORAGE TANK SECTION
77 West Jackson Boulevard, Chicago, Illinois 60604-3590**

**NOTICE OF VIOLATION AND
COMPLIANCE ORDER/SETTLEMENT AGREEMENT**

BD#: 2750706M011

Part I: Notice of Violation

On 5/8/07 Time 11 am
(Date of Violation) (a.m. or p.m.)

At Suburban Asphalt
(Name of Facility)
11251 W. Forest Home Ave, Franklin, WI
(Address of Facility)

Facility Identification Number _____

Name of Owner, Operator or Bob Picchiotto
On-Site Representative
(Circle One)
(Same as above)
(Address of Owner, Operator, or On-Site Representative)

An authorized representative of the United States Environmental Protection Agency (EPA) inspected this facility to determine compliance with underground storage tank regulations promulgated under Subtitle I of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901 et seq.). During this inspection, the following violations of the underground storage tank regulations were identified:

40 CFR 280.41(a) Proposed Penalty: \$ 300

Nature of Violation: Failure To Monitor Tanks every 30 days

40 CFR _____ Proposed Penalty: \$ _____

Nature of Violation: _____

40 CFR _____ Proposed Penalty: \$ _____

Nature of Violation: _____

40 CFR _____ Proposed Penalty: \$ _____

Nature of Violation: _____

TOTAL PROPOSED PENALTY: \$ 300

I have personally observed the above violations of the underground storage tank regulations.
Mark Restano Date: 5/29/07
(Signature of EPA Inspector)

Receipt:
I hereby acknowledge receipt of this Notice of Violation and the accompanying Compliance Order/Settlement Agreement and Instructions
Bob Picchiotto Date: 5/29/07
(Signature of Owner, Operator or On-Site Representative)

Part II: Compliance Order/Settlement Agreement

Compliance Order No. RUST-05-2007-0011

This Compliance Order/Settlement Agreement is not effective until signed both by the owner or operator and by EPA. By signing the Settlement Agreement included herein, the owner or operator agrees not to challenge the issuance of the Compliance Order included herein and accepts the Settlement Agreement by EPA. The owner or operator shall sign the Settlement Agreement first, and return it to EPA as provided in the instructions provided with this Compliance Order/Settlement Agreement. Subsequent signature by EPA constitutes issuance of the Compliance Order and acceptance on EPA's part of the Settlement Agreement. Approval and signature by EPA is in the sole discretion of the Regional Administrator, Region 5, or authorized delegate.

Compliance Order:
Under the authority of Subtitle I of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.), EPA finds that the owner or operator signing below is in violation of the underground storage tank regulations as described in the foregoing Notice of Violation, and **ORDERS** the owner or operator signing below to correct the violations and pay penalties in the amounts described in the Notice of Violation.

Settlement Agreement:
In order to expeditiously settle violations described in the Notice of Violation found herein, **EPA AND THE OWNER OR OPERATOR SIGNING BELOW HEREBY ENTER INTO THIS SETTLEMENT AGREEMENT**, subject to the following terms and conditions:

1. This Settlement Agreement is binding on the EPA and the Owner or Operator signing below;
2. The Owner or Operator signing below certifies, under civil and criminal penalties for making a false submission to the United States Government, that the Owner or Operator has corrected the violations and has presented to EPA with this Settlement Agreement a certified check to pay the full amount of penalties, as described in the Notice of Violation, and in accordance with the instructions included with this Notice of Violation and Compliance Order/Settlement Agreement;
3. The Owner or Operator signing below waives any objections to EPA's jurisdiction with respect to this Compliance Order/Settlement Agreement and the violations, and consents to EPA's final approval of this Settlement Agreement without further notice;
4. The Owner or Operator signing below waives the opportunity for a public hearing pursuant to Section 9006 of the Resource Conservation and Recovery Act;
5. Upon EPA final approval of this Settlement Agreement, EPA will take no further action against the Owner or Operator for the violations described in the Notice of Violation;
6. EPA does not waive any enforcement action by EPA, the State where the facility is located or any local agencies for any other past, present or future violations of the underground storage tank requirements or any other violations under any other statute not described in the Notice of Violation;
7. This Settlement Agreement is effective upon EPA's final approval below. Upon EPA final approval, EPA shall mail a copy of the approved Settlement Agreement to the Owner or Operator signing below at the address provided; and
8. Final approval of this Settlement Agreement is in the sole discretion of the Regional Administrator, EPA Region 5, or authorized delegate.

SIGNATURE BY OWNER OR OPERATOR:
Name: Terry Buss Title: Owner
Terry Buss Date: 6/20/07
Signature

Address: _____

FINAL APPROVAL BY EPA:
Name: Willie H. Harris Title: Chief, PMB
Willie H. Harris Date: 7/19/07
Signature

**United States Environmental Protection Agency
Region 5 - UNDERGROUND STORAGE TANK SECTION
77 West Jackson Boulevard, Chicago, Illinois 60604-3590**

**NOTICE OF VIOLATION AND
COMPLIANCE ORDER / SETTLEMENT AGREEMENT**

INSTRUCTIONS

The United States Environmental Protection Agency (EPA) has authority under Section 9006 of the Resource Conservation and Recovery Act to issue Compliance Orders and to pursue civil penalties for violations of the underground storage tank regulations. However, the EPA encourages the expedited settlement of easily verifiable violations of underground storage tank regulations, such as the violations described in the Notice of Violation, by agreeing to standard settlement terms that include expedited correction of the violation and payment of appropriate penalties.

You may resolve the cited violations quickly by correcting the violations, paying the penalty amounts and signing and returning the Settlement Agreement within 30 days of the issuance of the Notice of Violation. EPA, at its discretion, may grant one 30 day extension for the period to come into compliance where the owner or operator satisfactorily demonstrates that it is technically infeasible or impracticable to achieve compliance within 30 days.

The payment of the penalty amounts must be in the form of a certified check payable to the "Treasurer of the United States of America," with the number of the Notice of Violation and Compliance Order/Settlement Agreement, if shown, written on the check.

The Settlement Agreement and the check in payment of the penalty amount shall be sent to:

**U.S. Environmental Protection Agency
Region 5 - Underground Storage Tank Section (DU-7J)
ATTN. CHIEF, UST SECTION
77 West Jackson Boulevard
Chicago, Illinois 60604-3590**

EPA will not approve the Settlement Agreement if there is any alteration of the Notice of Violation and Compliance Order/Settlement Agreement or payment of less than the full amount of penalties, or if the Settlement Agreement is not returned in the time allowed. EPA will treat any response to the Notice of Violation other than timely acceptance of the Settlement Agreement as an indication that you are not interested in pursuing this expedited settlement procedure.

If the Settlement Agreement is not returned in proper form and full payment of penalties made within 30 days after issuance, unless an extension has been granted by EPA, the Compliance Order will be automatically withdrawn, without prejudice to EPA's ability to file additional enforcement actions for the above or any other violations. Failure to return the Settlement Agreement and pay the penalty amounts within the time allowed does not relieve you of the responsibility to comply fully with the regulations, including correcting the violations that have been specifically identified by the EPA Enforcement Officer.

This Notice of Violation and Compliance Order/Settlement Agreement is not an adjudicatory proceeding under 40 CFR Part 22, the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits. However, if EPA pursues administrative enforcement measures in order to correct the violations or to seek penalties, you will receive instructions describing your rights under those rules. By agreeing to this Settlement Agreement, you waive your right to a public hearing pursuant to Section 9006 of the Resource Conservation and Recovery Act.

Final approval of the Settlement Agreement is in the sole discretion of the Regional Administrator, EPA Region 5, or authorized delegate. Upon EPA final approval, a copy of the approved Settlement Agreement will be returned to you, and EPA will take no further action against you for these violations.

If you have any questions, you may contact the EPA Region 5 UNDERGROUND STORAGE TANK SECTION at (312) 886-6159.