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EPA REGION VIII  
HEARING CLERK

David J. Janik  
EPA Regional Hearing Clerk (8RC)  
1595 Wynkoop St.  
Denver Colorado 80202-1129

July 16, 2007

Sir/Madame ;

Regarding docket # RCRA-08-2007-0002.

We would like to exercise our option for a hearing on these charges. There are a couple of circumstances which caused the "fails" we received on our veeder-root tests.

We were doing a 0.01 test daily instead of the required test which is 0.02. The 0.01 test takes three hours to perform and is only required once a year. We were testing twice as stringent as we were required to test. The location pumped fuel throughout the night and this caused the test to show a fail. Had we been doing the 0.02 test, which only takes one and one half hours we would most likely have passed that test every day.

We did not suspect a leak, we knew the reason we were failing the test was due the fact we were pumping fuel.

Our error was performing a stricter test than the EPA regulations called for, had we been doing the 0.02 test we would have passed. The "fails" were sporadic and we did show passes after the "fail". We have since changed our test to 0.02 and we have not had a fail.

Ignorance of the regulations is no excuse, but I also did not realize that an occasional fail had to be reported to the EPA as a suspected leak in the state of Colorado.

I thank you for the opportunity to review this case in a hearing.

Sincerely :

Derrell Pitts  
General Manager  
7-2-11 Food Stores  
(505) 327-7211