

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE FILLED OUT BY ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: JIM HEENAHAN
Name of Contact person

3/23/09
Date

in the EPA 3 ORC
Office

at 215-814-2640
Phone number

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS

Administrative Order/
Consent Agreement
FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt

This is a modification

Name of Person and/or Company/Municipality making the payment
JOHN WYNN PATRICIA WYNN + PETRO MARKETING BROKERAGE COMPANY INC. (JOINT & SEVERAL)

The Total Dollar Amount of Receivable \$ 31,575
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number RCRA-03-2009-0095

The Site-Specific Superfund Acct. Number _____

The Designated Regional/HQ Program Office EPA-3 LAND + CHEMICALS DIVISION

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call:
Name of Contact _____ Date _____

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

- 1. U.S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-002)
Cincinnati, OH 45268
Attn: Lori Weidner
- 2. Originating Office (ORC)
- 3. Designated Program Office

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

- 1. Originating Office
- 2. Designated Program Office
- 3. Regional Hearing Clerk
- 3. Regional Counsel

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

John and Patricia Wynn
Petro Marketing and Petroleum Company, Inc.
P. O. Box 662
Jonesville, VA 24263

March 30, 2009

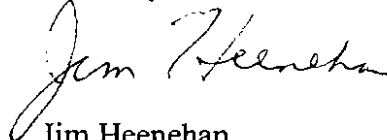
Re: Settlement Agreement
Petro Plus West End
Wilderness Trail Market - Tiger Mart (d/b/a Pioneer Market)
Petro Marketing and Brokerage Company Bulk Plant, Chapel Rd.

Dear Mr. And Mrs. Wynn:

I have enclosed a true and correct copy of Consent Agreement and Final Order. Please note that the penalty needs to be paid within thirty days of this agreement being placed into the mail or interest and penalties will accrue. Therefore, the payment needs to be received by EPA by April 29, 2009.

Thank you for your cooperation in resolving this matter. Please do not hesitate to call me at (215)814-2640 if you have questions on this or any other matter.

Sincerely,



Jim Heenehan
Sr. Assistant Regional Counsel

cc Martin Matlin (3LC70)

3/30/09 5:12

tank program are cited as Underground Storage Tanks: Technical Standards and Corrective Action Requirements (“VA UST Regulations”), 9 VAC § 25-580-10 *et seq.*

EPA provided the Commonwealth of Virginia with notice of the issuance of this CAFO on May 4, 2007 in accordance with Section 9006(a) of RCRA, 42 U.S.C. § 6991e(a).

General Provisions

1. For the purposes of this proceeding, Respondents admit the jurisdictional allegations of this CA.
2. Respondents neither admit nor deny the Findings of Fact contained in this CA, except as provided in Paragraph 1, above.
3. Respondents neither admit nor deny the Conclusions of Law contained in this CA, except as provided in Paragraph 1, above.
4. For the purposes of this proceeding only, Respondents hereby expressly waive their right to contest any issue of law or fact set forth in the CA or to appeal the FO attached hereto.
5. Respondents consent to the issuance of this CAFO and agree to comply with its terms. Respondents agree not to contest Complainant's jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement thereof.
6. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

EPA's Findings of Fact and Conclusions of Law

7. In accordance with the Consolidated Rules at §§ 22.13(b) and 22.18(b)(2) and (3), Complainant makes the following findings of fact and conclusions of law:
 - a. Respondents are and were at the time of the violations alleged herein “persons” as defined by Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 9 VAC § 25-580-10.
 - b. Respondents John Wynn and Patricia Wynn were, from October 1, 2005 to March 31, 2006, “operators” of “underground storage tanks” (“USTs”) and “UST systems”, as defined in Sections 9001(3) and (10) of RCRA, 42 U.S.C. §§ 6991(3) and (10), and 9 VAC § 25-580-10, located at the Petro Plus West End (ID #1027326) facility, Highway 58, Jonesville, Virginia, 24277 (“Petro Plus West End Facility”) and described in Paragraph 7.c.i, below.

- c. Respondent Petro Marketing and Brokerage Company, Inc. (“Petro”) at the time of the violations alleged in this CAFO, was the “owner” and/or “operator” of “underground storage tanks” (“USTs”) and “UST systems”, as defined in Sections 9001(3), (4), and (10) of RCRA, 42 U.S.C. §§ 6991(3), (4), and (10) and 9 VAC § 25-580-10, which are located at:
- i. Petro Plus West End Facility at Highway 58, Jonesville, Virginia, 24277: one (1) Regular 8,000 gallon UST, one (1) Premium 4,000 gallon UST, one (1) Diesel 6,000 gallon UST and one (1) Kerosene 2,000 gallon UST;
 - ii. Wilderness Trail Market - Tiger Mart (d/b/a Pioneer Market) at Route 58 & Route 897, Ewing, Virginia 24248 (“Wilderness Trail Market Facility”): one (1) Regular 6,000 gallon UST, one (1) Premium 4,000 gallon UST, and one (1) 4,000 gallon Diesel UST; and
 - iii. Petro Marketing and Brokerage Company Bulk Plant at Chapel Garden Drive, Jonesville, Virginia 24263 (“Petro Bulk Plant Facility”): one (1) 20,000 gallon Diesel and one (1) 20,000 gallon Heating Oil UST.
- d. On or about December 15, 2005, Petro sold the USTs located at the Wilderness Trail Market Facility to Riggs Oil Company. Petro continued as the operator of this Facility until on or about January 6, 2006. According to Respondents, the land, equipment and other facility structures were sold by Patricia Wynn to Riggs Oil Company as part of the December 15, 2005 transaction.
- e. Respondents assert that the two tanks at the Petro Bulk Plant were pumped down to 2.5 and 4.5 inches respectively and were pumped to less than one inch of liquid as of March 5, 2008.
- f. On August 29, 2006, an EPA representative conducted a Compliance Evaluation Inspection of the USTs at the Wilderness Trail Market Facility pursuant to RCRA § 9005, 42 U.S.C. § 6991d.
- g. On August 30, 2006, an EPA representative conducted a Compliance Evaluation Inspection of the USTs at the Petro Plus West End and Petro Bulk Plant Facilities pursuant to RCRA § 9005, 42 U.S.C. § 6991d.
- h. On December 11, 2006 and February 26, 2007, EPA sent Respondent Petro information request letters (“IRLs”) concerning UST operations at the three Facilities identified above in Paragraph 7 b. and c. Respondent Petro responded to these requests in letters dated December 29, 2006 and March 9, 2007, respectively.

- i. In an email to EPA dated July 13, 2008 enclosing a letter dated July 11, 2008, Respondents John and Patricia Wynn stated that Petro is unable to pay any penalty for the violations alleged herein.
- j. In an email to Respondent John Wynn dated July 14, 2008, EPA requested Petro's three most recent years of tax returns and the most recent year of Petro's bank statements.
- k. In a letter dated August 5, 2008, Respondent John Wynn submitted to EPA Petro's three most recent years of tax returns (2001, 2002, and 2003) and the most recent year of Petro's bank statements (end date September 30, 2005).
- l. In a letter dated October 3, 2008, Respondent John Wynn sent to EPA a 16-page Financial Statement of Corporate Debtor form concerning the operations of Petro from 2001-2006, including losses suffered by the company in 2005. (The title page of the form is missing but pages 2-16 are enclosed).
- m. On February 2, 2009 Respondent Patricia Wynn submitted an affidavit dated February 2, 2009 and signed by Patricia Wynn stating that Petro has no financial assets and that any assets Petro did have were used to pay various creditors in 2005.
- n. At all times relevant hereto, nine (9) USTs were in existence at Respondents' Facilities as described in the counts below. Three (3) of these nine (9) USTs were sold by Petro to Riggs Oil Company on or around December 15, 2005 as identified above in Paragraph 7.d above.
- o. All USTs referenced in Paragraphs 7.b, c and n, above, are "UST systems" as defined in 9 VAC § 25-580-10.
- p. All USTs referenced in 7.b, c and n, above, are and were, at all times relevant to this CAFO, used to store "regulated substance(s)" at Respondents' Facilities, as defined in 9 VAC § 25-580-10 and RCRA § 9001(7), 42 U.S.C. § 6991(7).

COUNT I

PETRO PLUS WEST END FACILITY

(Failure to Maintain Release Detection Records)

8. Paragraphs 1-7 of this CAFO are incorporated by reference as though fully set forth herein.
9. 9 VAC § 25-580-180 requires UST system owners and operators to maintain records in

accordance with 9 VAC § 25-580-120 demonstrating compliance with 9 VAC §§ 25-580-130 through 180 .

10. 9 VAC § 25-580-120(2)(c) requires UST system owners and operators to maintain records of recent compliance with release detection requirements in accordance with 9 VAC § 25-580-180.
11. 9 VAC § 25-580-120(3) requires UST system owners and operators to maintain any required records either at the UST site or at a readily available alternative site and be provided for inspection upon request.
12. 9 VAC § 25-580-180(2) requires, with certain exceptions not relevant here, that the results of any sampling, testing, or monitoring must be maintained for at least one year.
13. 9 VAC § 25-580-140(1) provides that, with exceptions not applicable to Respondents' USTs, tanks must be monitored at least every thirty days for releases using one of the release detection methods listed in 9 VAC § 25-580-160(4)-(8).
14. From August 1, 2005 through March 31, 2006, Respondent Petro violated 9 VAC §§ 25-580-120(2) and -180(2) by failing to maintain records of release detection either at the UST site or at a readily available alternative site for the preceding twelve months for the four above-referenced Petro Plus West End Facility USTs.
15. From October 1, 2005 through March 31, 2006, Respondents John and Patricia Wynn violated 9 VAC §§ 25-580-120(2) and -180(2) by failing to maintain records of release detection either at the UST site or at a readily available alternative site for the preceding twelve months for the four above-referenced Petro Plus West End Facility USTs.

COUNT II

PETRO PLUS WEST END FACILITY

(Failure to Conduct Annual Line Tightness Testing or Monthly Pipe Monitoring)

16. Paragraphs 1–15 of this CAFO are incorporated by reference as though fully set forth herein.
17. 9 VAC § 25-580-140(2)(a) provides that underground piping that routinely contains and conveys under pressure regulated substances must be equipped with an automatic line leak detector (“LLD”) conducted in accordance with 9 VAC § 25-580-170 and that such piping must have an annual line tightness test (“LTT”) conducted in accordance with 9 VAC § 25-580-170 or have monthly monitoring conducted in accordance with 9 VAC § 25-580-170.

18. 9 VAC § 25-580-170(1) specifies that UST system owners and operators using automatic LLDs must use “[m]ethods which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visible alarm may be used only if they detect leaks of three gallons per hour at 10 pounds per square inch line pressure within one hour;” and that “[a]n annual test of the operation of the leak detector must be conducted in accordance with the manufacturer’s requirements.”
19. 9 VAC § 25-580-170(2) specifies that a LTT conducted pursuant to this subsection must be capable of detecting a 0.1 gallon per hour leak rate at one and one-half times the operating pressure.
20. 9 VAC § 25-580-170(3) specifies that UST system owners and operators may use any of the monthly release detection methods specified in 9 VAC § 25-580-160(5)-(8), if such method is designed to detect a release from any portion of the underground piping that routinely contains regulated substances as an alternative to LTT.
21. From at least January 1, 2004 through December 31, 2006, the Regular, Premium and Diesel USTs at the Petro Plus West End Facility had underground piping that routinely conveyed regulated substances under pressure.
22. From at least January 1, 2004 through December 31, 2005, the underground piping for the Regular, Premium and Diesel USTs at the Petro Plus West End Facility were equipped with automatic LLDs.
23. From at least January 1, 2004 through December 31, 2005, Respondent Petro did not conduct annual LTT in accordance with 9 VAC § 25-580-170(2) for any of the Regular, Premium and Diesel Petro Plus West End Facility USTs equipped with pressurized piping.
24. From at least October 1, 2005 through December 31, 2005, Respondents John and Patricia Wynn did not conduct annual LTT in accordance with 9 VAC § 25-580-170(2) for any of the Regular, Premium and Diesel Petro Plus West End Facility USTs equipped with pressurized piping.
25. From at least January 1, 2004 through December 31, 2005, Respondent Petro did not conduct alternative monthly monitoring in accordance with 9 VAC § 25-580-170(3) for any of the Regular, Premium and Diesel Petro Plus West End Facility USTs to detect a release from any portion of the underground piping that routinely contains regulated substances.
26. From at least October 1, 2005 through December 31, 2005, Respondents John and Patricia Wynn did not conduct alternative monthly monitoring in accordance with 9 VAC

§ 25-580-170(3) for any of the Regular, Premium and Diesel Petro Plus West End Facility USTs to detect a release from any portion of the underground piping that routinely contains regulated substances.

27. From at least January 1, 2004 through December 31, 2005, Respondent Petro violated 9 VAC §§ 25-580-140(2)(a) and 170(2) and/or (3) by failing to meet the pressurized piping release detection requirements for the Regular, Premium and Diesel Petro Plus West End Facility USTs.
28. From at least October 1, 2005 through December 31, 2005, Respondents John and Patricia Wynn violated 9 VAC §§ 25-580-140(2)(a) and 170(2) and/or (3) by failing to meet the pressurized piping release detection requirements for the Regular, Premium and Diesel Petro Plus West End Facility USTs.

COUNT III

PETRO PLUS WEST END FACILITY

(Failure to Conduct Annual Line Leak Detector Testing)

29. Paragraphs 1–28 of this CAFO are incorporated by reference as though fully set forth herein.
30. From at least January 1, 2004 through December 31, 2006, Respondent Petro did not conduct annual LLD testing in accordance with 9 VAC § 25-580-170(1) for any of the Regular, Premium and Diesel Petro Plus West End Facility USTs.
31. From at least October 1, 2005 through March 31, 2006, Respondents John and Patricia Wynn did not conduct annual LLD testing in accordance with 9 VAC § 25-580-170(1) for any of the Regular, Premium and Diesel Petro Plus West End Facility USTs.
32. From at least January 1, 2004 through December 31, 2006, Respondent Petro violated 9 VAC §§ 25-580-140(2)(a)(1) and -170(1) by failing to conduct a LLD test for each of the Regular, Premium and Diesel Petro Plus West End Facility USTs.
33. From at least October 1, 2005 through March 31, 2006, Respondents John and Patricia Wynn violated 9 VAC §§ 25-580-140(2)(a)(1) and -170(1) by failing to conduct a LLD test for each of the Regular, Premium and Diesel Petro Plus West End Facility USTs.

COUNT IV

WILDERNESS TRAIL MARKET FACILITY

(Failure to Conduct Annual Line Tightness Testing or Monthly Pipe Monitoring)

34. Paragraphs 1–33 of this CAFO are incorporated by reference as though fully set forth herein.
35. From at least January 1, 2003 through December 31, 2005, the Regular, Premium and Diesel USTs at the Wilderness Trail Market Facility had underground piping that routinely contained and conveyed under pressure regulated substances.
36. From at least January 1, 2003 through December 31, 2005, the underground piping for the Regular, Premium and Diesel USTs at the Wilderness Trail Market Facility were equipped with automatic LLDs.
37. From at least January 1, 2003 through December 31, 2005, Respondent Petro did not conduct annual LTT in accordance with 9 VAC § 25-580-170(2) for any of the Regular, Premium and Diesel Wilderness Trail Market Facility UST.
38. From at least January 1, 2003 through December 31, 2005, Respondent Petro did not conduct alternative monthly monitoring in accordance with 9 VAC § 25-580-170(3) for any of the Regular, Premium and Diesel Wilderness Trail Market Facility USTs to detect a release from any portion of the underground piping that routinely contains regulated substances.
39. From at least January 1, 2003 through December 31, 2005, Respondent Petro violated 9 VAC § 25-580-140(2)(a) and 170(2) and/or (3) by failing to meet the pressurized piping release detection requirements for the Regular, Premium and Diesel Wilderness Trail Market Facility USTs.

COUNT V
WILDERNESS TRAIL MARKET FACILITY
(Failure to Conduct Annual Line Leak Detector Testing)

40. Paragraphs 1–39 of this CAFO are incorporated by reference as though fully set forth herein.
41. From at least January 1, 2003 through December 31, 2005, Respondent Petro did not conduct annual LLD testing in accordance with 9 VAC § 25-580-170(1) for any of the Regular, Premium and Diesel Wilderness Trail Market USTs.
42. From at least January 1, 2003 through December 31, 2005, Respondent Petro violated 9 VAC §§ 25-580-140(2)(a)(1) and -170(1) by failing to conduct a LLD test for each of the Regular, Premium and Diesel Wilderness Trail Market Facility USTs.

COUNT VI
PETRO BULK PLANT FACILITY
(Failure to Provide Release Detection)

43. Paragraphs 1–42 of this CAFO are incorporated by reference as though fully set forth herein.
44. From November 1, 2005 through March 4, 2008, Respondent Petro did not provide an approved method of release detection set forth in VAC § 25-580-160(4)-(8) for the Diesel and Heating Oil Petro Bulk Plant Facility USTs.
45. From November 1, 2005 through March 4, 2008, Respondent Petro violated 9 VAC § 25-580-140 by failing to use an approved method of release detection for the Diesel and Heating Oil Petro Bulk Plant Facility USTs.

Civil Penalty

46. Respondents consent to the assessment of a civil penalty in the amount of Thirty-One Thousand Five Hundred and Seventy-Five Dollars (\$31,575.00) in full satisfaction of all claims for civil penalties for the violations alleged in this CAFO. Payment of the aforesaid civil penalty shall be made by Respondents either in one (1) payment of \$31,575 on behalf of all Respondents; or two (2) separate payments by two Respondents on behalf of all Respondents, the combined amount of which is \$31,575; or three (3) separate payments, one by each Respondent, the combined amount of which is \$31,575. Regardless of how the Respondents agree how to apportion payment of the \$31,575, all Respondents are jointly and severally liable for payment of the full \$31,575. Such civil penalty amount is due and payable immediately upon Respondents' receipt of a true and correct copy of this CAFO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, as described below, Respondents must pay the civil penalty no later than thirty (30) calendar days after the date on which this CAFO is mailed or hand-delivered to Respondents.
47. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors set forth in RCRA Section 9006(c) - (e), 42 U.S.C. § 6991e(c) - (e), and in accordance with EPA's Penalty Guidance for Violations of UST Regulations ("UST Guidance") dated November 4, 1990. EPA has also considered the *Adjustment of Civil Monetary Penalties for Inflation*, as set forth in 40 C.F.R. Part 19, and the September 21, 2004 memorandum by Acting EPA Assistant Administrator Thomas V. Skinner entitled, *Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule* ("2004 Skinner Memorandum"). 40 C.F.R. Part 19 and the 2004 Skinner Memorandum specify that, for violations occurring after January 30, 1997, statutory penalties and penalties under the UST Guidance for RCRA Subtitle I

violations, were increased 10% above the maximum amount to account for inflation, and while the statutory maximum penalties for RCRA Subtitle I violations occurring after March 15, 2004, remained at \$11,000, penalties for violations after this date as calculated under the UST Guidance for RCRA Subtitle I violations were increased by an additional 17.23% above the amount set forth in the Guidance to account for inflation, not to exceed the aforementioned \$11,000 limitation.

48. Payment of the civil penalty amount required under the terms of Paragraph 46, above, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

- A. All payments by Respondent shall reference its name and address and the Docket Number of this action (Docket No. RCRA-03-2009-0095);
- B. All checks shall be made payable to "**United States Treasury**";
- C. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency—Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Contact: Natalie Pearson, 314-418-4087

- D. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency—Fines and Penalties
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson, 314-418-4087

- E. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33

33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

- F. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact: Jesse White 301-887-6548

ABA = 051036706
Transaction Code 22 - Checking
Environmental Protection Agency
Account 310006
CTX Format

- G. On-Line Payment Option:

WWW.PAY.GOV

Enter sfo 1.1 in the search field. Open and complete the form.

- H. The customer service phone numbers for the above payment centers are:

212-720-5000 (wire transfers, Federal Reserve Bank of New York)
800-762-4224 (ACH/Wire Info, PNC Bank)

Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment_cin.htm

- I. Copies of all checks and/or copies of all electronic fund transfers made in payment of the penalty described in Paragraph 46 shall be sent simultaneously to:

James Heenehan
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)

1650 Arch Street
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

49. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.
50. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a Consent Agreement and Final Order begins to accrue on the date that a copy of the Consent Agreement and Final Order is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
51. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) calendar days the penalty remains unpaid.
52. A late payment penalty of six percent per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
53. Respondents agree not to deduct for federal tax purposes the civil monetary penalty specified in this CAFO.

Certification of Compliance

54. As to the relevant provisions of RCRA and the VA UST Regulations allegedly violated as set forth in the Findings of Fact and Conclusions of Law, above, Respondents certify to EPA that, upon investigation, to the best of Respondents' knowledge and belief, Respondents are currently in compliance with all such relevant provisions and regulations.

Reservation of Rights

55. This CAFO resolves only EPA's claims for civil penalties for the specific violations alleged in the CAFO. EPA reserves the right to commence action against any person, including Respondents, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

Parties Bound

56. This CAFO shall apply to and be binding upon the EPA, Respondents and their officers, directors, employees, successors, agents and assigns.

Full and Final Satisfaction

57. This CAFO constitutes a full, complete and final settlement of EPA's claims for civil penalties pursuant to Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d), for the specific violations alleged herein. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violations of the federal laws and regulations administered by EPA.
58. The settlement embodied in this Consent Agreement is based in part upon an analysis of Respondent Petro's ability to pay a civil penalty. This analysis is based upon information submitted to Complainant by Respondents, as listed on Exhibit A to this Consent Agreement. Respondents and their undersigned representatives, by such representative's signature to this Consent Agreement, certify that the information submitted to EPA regarding Respondent Petro's ability to pay is accurate and not misleading.

59. Respondents aware that the submission of false or misleading information to the United States government may subject them to separate civil and/or criminal liability. Complainant reserves the right to seek and obtain appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondents to Complainant regarding the matters at issue in the Findings of Fact and Conclusions of Law are false or, in any material respect, inaccurate.

Other Applicable Laws

60. Nothing in this CAFO shall relieve Respondents of any duties otherwise imposed on them by applicable federal, state or local law and/or regulations.

Authority to Bind the Parties

61. The undersigned representative of each Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind such Respondents hereto.

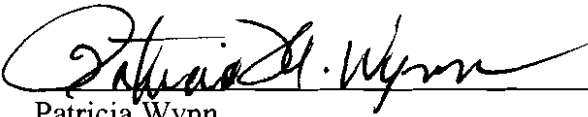
Effective Date

62. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

For Respondent:

Petro Marketing and Brokerage Company, Inc.

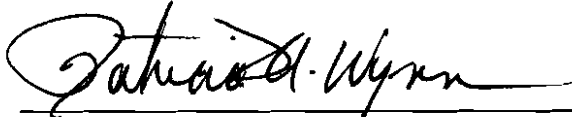
Date: 03/12/09

By: 
Patricia Wynn
President, Petro Marketing and Brokerage Company, Inc.

For Respondent:

Patricia Wynn

Date: 03/12/09

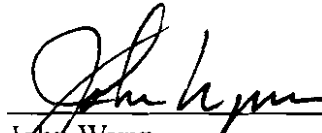
By: 
Patricia Wynn

For Respondent:

John Wynn

Date: 3/6/09

By:



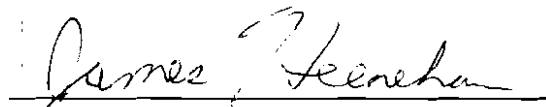
John Wynn

For Complainant:

United States Environmental Protection Agency,
Region III

Date: 3/23/09

By:

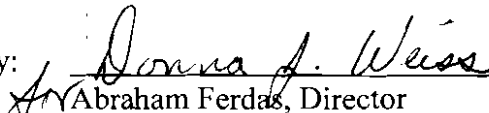


James Heenehan
Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Director of the Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or his designee, the Regional Judicial Officer, sign the Final Order attached hereto.

3/26/09
Date

By:



for Abraham Ferdas, Director
Land and Chemicals Division

Exhibit A

Documents Submitted by Respondents to Support Petro's Ability-to-Pay Penalty Mitigation Position

1. 2001 Petro Tax Return;
2. 2002 Petro Tax Return;
3. 2003 Petro Tax Return;
4. Petro's monthly bank statements from October 2004 through September 2005;
5. July 13, 2008 email from John Wynn to James Heenehan enclosing a July 11, 2008 John Wynn letter to Jim Heenehan stating the Petro was unable to pay any civil penalty.
6. October 3, 2008 letter from John Wynn sent to Jim Heenehan letter enclosing a 16-page Financial Statement of Corporate Debtor form concerning the operations of Petro from 2001-2006 (note title page of form is missing but pages 2-16 are enclosed); and
7. An affidavit dated February 2, 2009 and signed by the president of Petro, Patricia Wynn stating Petro's lack of financial assets.

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

In the Matter of:	:	
	:	
Petro Marketing and Brokerage Company, Inc.,	:	U.S. EPA Docket No. RCRA-03-2009-CO
	:	
Patricia Wynn,	:	
	:	
and	:	FINAL ORDER
	:	
John Wynn	:	
	:	
Respondents.	:	
	:	

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondents, Petro Marketing and Brokerage Company, Inc., Patricia Wynn, and John Wynn, have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW THEREFORE, pursuant to Section 9006(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6991e(a), and the Consolidated Rules of Practice, and having determined, based on the representations in the Consent Agreement, that the civil penalty agreed to in the Consent Agreement is based upon the factors set forth in Section 9006(c) - (e) of RCRA, 42 U.S.C. § 6991e(c) - (e), IT IS HEREBY ORDERED that Respondents Petro Marketing and Brokerage Company, Inc., Patricia Wynn and John Wynn jointly and severally pay a civil penalty of Thirty-One Thousand Five Hundred and Seventy-Five Dollars (\$31,575.00) and comply with all of the terms and conditions of the Consent Agreement.

The effective date of the Consent Agreement and this Final Order is the date on which the Final Order is filed with the Regional Hearing Clerk.

Date: 3/27/09



Renée Sarajian
Regional Judicial Officer
U.S. EPA, Region III

