RE: In the matter of US Dep. of VA, Docket No. RCRA-02-2012-7502
DiTeodoro, Jack
to:
Rudolph Perez
04/20/2012 03:44 PM
Hide Details
From: "DiTeodoro, Jack" <Jack.DiTeodoro@va.gov>

To: Rudolph Perez/R2/USEPA/US@EPA

Hi, Rudy, this is to confirm that the submission dated 2/7/12 is the VA's response to the complaint. I look forward to meeting you next Thursday. Enjoy the weekend.

From: Rudolph Perez [mailto:Perez.Rudolph@epamail.epa.gov]
Sent: Tuesday, April 17, 2012 2:57 PM
To: DiTeodoro, Jack
Subject: RE: In the matter of US Dep. of VA, Docket No. RCRA-02-2012-7502

Jack, as we discussed earlier, I tried to submit your letter of February 7, 2012 to the Regional Hearing Clerk as the answer to EPA's compliant "In the matter of USDVA, Docket No. RCRA-02-2012-7502." However, the clerk would not accept it because the letter was not directed to her and it does not say explicitly that it is the answer to the complaint. Could you please send me an e-mail clearly stating that your February 7, 2012 is the answer to the EPA complaint. Thank you.

Rudy

DEPARTMENT OF VETERANS AFFAIRS
OFFICE OF REGIONAL COUNSEL
800 Poly Place, Building 14
Brooklyn, New York 11209

FEB 7 2012

United States of America
Environmental Protection Agency
Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
ATTN: Charles Zafonte, Enforcement Officer,
Compliance and Program Support Branch

In Reply Refer To:
630A4/02-4L

SUBJ: In the Matter of United States Department of Veterans Affairs
Docket Number RCRA-02-2012-7502

Dear Mr. Zafonte:

This office represents the Department of Veterans Affairs (VA) Medical Centers located in Northport, New York, Montrose, New York and Lyons, New Jersey. We are in receipt of a complaint dated December 29, 2011 alleging multiple violations in connection with the operation of underground storage tanks at these three facilities.

Enclosed please find the responses from the facilities to the charges set forth in the complaint.

Please call me after you review the responses so that we could discuss a resolution of the complaint.

Very truly yours,

GEORGE J. BURNS
Regional Counsel

By: J. P. Teodoro
JACK P. DiTEODORO
General Attorney
Tel.: (718) 630-2924

DiTeodoro, Jack

From: Levins, Peter J.
Sent: Monday, January 30, 2012 1:24 PM
To: DiTeodoro, Jack
Cc: Patnode, Rosemary
Subject: Response to EPA NOV
Attachments: Docket No. RCRA-02-2012-7502 Response.pdf; Docket No. RCRA-02-2012-7502 Exhibit 1.pdf; Docket No. RCRA-02-2012-0752 Exhibit 2.pdf; Docket No. RCRA-02-2012-7502 Exhibit 3.pdf; Docket No. RCRA-02-2012-7502 Exhibit 4.pdf; Docket No. Rcra-02-2012-7502 Exhibit 5.pdf; Docket No. Rcra-02-2012-7502 Exhibit 6.pdf; Docket No. RCRA-02-2012-7502 Exhibit 7.pdf

Importance: High

Attached find my response to the EPA Nov and back-up documentation.
If you need a hard copy, please advise and I send it to you Certified.
Let me know if you need any additional material.

Peter J. Levins
GEMS Coordinator
GREEN ENVIRONMENTAL MANAGEMENT SYSTEM (GEMS)
VA New Jersey Health Care System
East Orange Office: 1-973-676-1000 X1782 (Monday, Tuesday & Thursday)
Lyons Office: 1-908-647-0180 X4715 (Wednesday & Friday)

Exhibit #5

USING SERVICE COPY (JAN 25, 2012@14:05:18)

ISSUING OFFICE:
Dept. of Veterans Affairs Medical Center
385 TREMONT AVE
EAST ORANGE, NJ 07018

REQUESTING SERVICE:
FACILITIES MANAGEMENT SERVICE(138)

DEL. TO: BLDG. 10, ROOM 215

VENDOR:
LJM ENGINEERING GROUP INC
439 US HIGHWAY 46 STE 3
ROCKAWAY NJ 07866-3631

973-586-3004 FAX: 973-586-3009
FMS Vendor Code: 221957398

SHIP TO:
WAREHOUSE EO C00330
V.A. Medical Center
LOGISTICS EAST ORANGE
385 TREMONT AVE
EAST ORANGE, NJ 07018-1095

DELIVERY HOURS:
8:00 TO 4:00

FOB POINT: DESTINATION
GOV'T BL #:
PURCHASE ORDER
DELIVER ON/BEFORE 9/30/2011
DISCOUNT TERM: NET30
SHIP VIA:

PROPOSAL: L. Muse

CONTRACT:
VA243-P-0233

MAIL INVOICE TO:
FISCAL (04)
VA MEDICAL CENTER
385 Tremont Avenue
EAST ORANGE, NJ 07018-1095

ITEM	DESCRIPTION	QTY	UNIT	UNIT COST	TOTAL COST
1	Project 561A4-10-122	1	JB	58119.00	58119.00

9. Tank serving Building 57: Remove existing 1500 gallen underground storage tank presently located on the opposite side of a building connecting link which separates the tank location from the generator building served by same. Provide new double wall underground 1500 gal fiberglass tank on the same side as the generator building. Provide new s/s jacketed S & R lines. New slab to be traffic bearing with bollards.

14. All new UG tanks to be double wall fiberglass.

15. For All Sites: Extend minimum 2' additional past new concrete pads (therefore overall + 10') on all sides with fabric mat or similar horizontal chain link buried + 6' below new slabs for ground hog deterrent.

ITEM	DESCRIPTION	QTY	UNIT	UNIT COST	TOTAL COST

16. All day tanks and vederoot monitoring are new, therefore piping to day tanks only.

17. New slabs shall have new code 5 gal overrpill.

18. Provide drop tubes, overfill and spill protection and color coding as required.
BOC: 2580 FMS LINE: 001 CONTRACT: VA243-P-0233

ITEMS CONTINUED ON NEXT PAGE

AUTHORITY FOR PURCHASE RFP | P.O. NO. 561-C00330 | PO DATE 4/27/2010 | TOTAL: 58119.00

CONTRACTING OFFICER | DATE SIGNED | PHONE | FAX
/ES/JOEL M. TAYLOR | 4/30/2010@10:01 | 718-584-9000 | 718-741-4704
E MAIL: joel.taylor@va.gov

FUND CERTIFICATION: The supplies/services listed on this request are properly chargeable to the following allotments, the available balances of which are sufficient to cover the cost thereof, and funds have been obligated.

APPROPRIATION: 36C0162-5820 OBLIGATED BY: /ES/YOLANDA ALI DATE: 4/30/2010
COST CENTER: 854200 BOC1: 2580 AMOUNT1: 58119.00 FMS LINE: 001
SOURCE CODE: SUPPLY-2 FISCAL-3
FCP/PRJ: 23NRNR000

90-2138-7-ADP, JAN 1984

VISN NRM PROGRAM - DELIVERED TO GEORGE PIETRUSZKA - BLDG. 10 - X-4251 - RET'D TO SVC, RENUMBER FOR 3RD QTR AND CHANGE DELIVERY DATE (MW 138 4/1/10) VISN NRM PROJECT - DELIVER TO GARY BOEHNER, BLDG. 10, X-4265 - RET'D TO SERVICE, RENUMBER FOR 3RD QTR AND CHANGE DELIVERY DATE (MW 138 4/1/10)

V.A. TRANSACTION NUMBERS:
561-10-3-5820-0063

Docket No. RCRA-02-2012-7502

In response to the allegations in the above referenced document and outlined as Count 7 numbers 81 – 90 on page #11 the following information is being submitted:

1. In the original NOV issued in 2009 on pg #4 and included as exhibit #1 reference was made that the monitoring system for tank E16A was in alarm indicating an L1 alarm which was correctly identified as the tank interstice and included as #84 in the above docket. Although the individual accompanying the inspector to all tank locations had no explanation at that time it did not indicate that the information was not noted and the situation investigated as stated in #85, 86, 87 and 90 of the docket. Unlike the statement made this information was reported to the inspector during the inspection and the results were relayed that the inspection did not reveal fuel in the interstitial space but water. The probe was removed and a small quantity of water, less than 16 ounces, was removed. To address number 88, in the process of the investigation and followup the cause of the water being in the space was investigated but could not be determined. It was our final determination that since it was the spring with temperature fluctuations in the soil that condensation between the tank walls could be the cause. We would therefore continue to monitor and there was no reoccurrences. Therefore unlike item #82 on page #11we did a site check to confirm that it was not fuel and when the water was removed and the alarm cleared it confirmed a system check. Further action was not required. With regard to #83 there was no release or suspected release so there was no need for a notification. If it had been fuel in the interstitial space then we would have initiated appropriate actions in the form of hiring a company to investigate and repair and notifying the NJDEP.
2. Our initial response to the EPA dated June 23, 2009, number 1.b., reaffirms the above information and is included as exhibit #2. This includes the result of our investigation and also contained copies of random meter readouts for the building 57 tank, E16A, and is exhibit #3. With the exception of the printout from May 4 all others showed no leakage.
3. A decision was made at that time that since we have a large number of tanks and we just invested a large quantity of money in the new monitors that, as a P2 initiative, we would improve our monitoring capability by networking all the monitors to a central location in building #14 which is the maintenance shop area. This way any alarm would be reported to a 5-day manned area and investigations could be in a more timely fashion. The project was designed and completed at a cost of approximately $16,000.00 prior to the end of our Fiscal Year in September 2009. No indication of a repeat L1 alarm was noted.
4. During the May 2009 inspection the inspector was told that we have several tanks that will be replaced for a number of reasons. The E16A tank was described as one of these tanks that has persistent problems with groundhogs. Our efforts to obtain groundhog resistant fuel lines and the additional deterrents that had to be built into the fuel pads was discussed at length. We put in an application with the VA for a NMR Project on 10/16/2009, see exhibit #4, for the project with an estimated cost of $400,000.00. The design was awarded on 4/30/2010 for $58,119.00 (exhibit #5).Budgetary cost estimates, exhibit #6, were made on April, 1, 2011 $658,000.00 for the entire project. Award notice was 9/12/2011, exhibit #7, followed by the permitting process. The project is currently underway. Other tanks were evaluated and were included in the project for reasons such as high ground water levels and remotes of location to the generator that tey served.

Peter J. Levins, GEMS Coordinator

1-30-12
Date

Exhibit #1

ENCLOSURE I
NOTICE OF VIOLATION

The following violations were identified by the EPA representative during the May 4-7, 2009 inspection of the U.S. Department of Veterans Affairs Lyons, 151 Knollcroft Road, Lyons, NJ 07939 with respect to the UST systems used to fuel emergency generators.

Pursuant to 40 CFR § 280.22, all UST owners or operators must submit complete notification forms to the appropriate state or local agency.

- The facility's state registration application characterizes the twelve USTs used for emergency generators as using pressurized piping, equipped with automatic line leak detectors, whereas all were observed to use suction pumping and have no automatic line leak detectors.

Pursuant to 40 CFR §§ 280.50c and 280.52, owners and operators of UST systems must report monitoring results that indicate a release, and unless corrective action is initiated in accordance with Subpart F, must immediately investigate and confirm all suspected releases, using either a system test or site check.

- At the time of the inspection, the Veeder-Root TLS-350 gauge for Tank System E16A was observed to be in alarm status: "Fuel Alarm on L1." The Veeder Root setup identified L1 as the tank interstice. Facility representatives had no explanation for the failure to investigate the alarm. E16A is tank for Bldg #57

Pursuant to 40 CFR § 280.31a, all corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances.

- Piping in tank-top sumps was observed to be subject to extreme corrosion in USTs E8A, E11A and E22A, the first two including not only corrosion of steel, but also of aluminum connectors. E8A is Bldg #14, E11A is Bldg #7, E22A is Bldg #141

Pursuant to 40 CFR § 280.31b, all cathodic protection systems must be tested within six months of installation.

- The facility's state registration application states that sacrificial anodes were installed on Tank System E11A on July 18, 2006. Although the facility documented a cathodic protection survey in August 2007, the facility could not provide the six-month corrosion protection survey required for E11A in January 2007.

Pursuant to 40 CFR § 280.31b and d, all cathodic protection systems must be tested at least every three years, and records of the last two tests must be maintained to demonstrate compliance.

Exhibit #3

Information Request Response 23 June 2009 update 9/23/2009

1. a.

Pursuant to 40 CFR § 280.22, all UST owners or operators must submit complete notification forms to the appropriate state or local agency.

- The facility's state registration application characterizes the twelve USTs used for emergency generators as using pressurized piping, equipped with automatic line leak detectors, whereas all were observed to use suction pumping and have no automatic line leak detectors.

1. Tanks E8A through E28 which serve emergency generators are properly registered with NJDEP as American Suction piping. This item was corrected as a result of NJDEP inspection in July of 2007. The request to correct this item was also intended to remove the Automatic Line Leak Detection but was overlooked by NJDEP. A copy of the Facility Questionnaire submitted to NJDEP in July 2007 is included as part of this submission.

2. A copy of the Facility Questionnaire submitted to NJDEP in June 2009 is included as part of this submission to verify a request to remove the piping item for Automatic Line Leak Detection. Also included is a summary sheet for our fuel oil tanks.

DONE

1.b.

Pursuant to 40 CFR §§ 280.50c and 280.52, owners and operators of UST systems must report monitoring results that indicate a release, and unless corrective action is initiated in accordance with Subpart F, must immediately investigate and confirm all suspected releases, using either a system test or site check.

- At the time of the inspection, the Veeder-Root TLS-350 gauge for Tank System E16A was observed to be in alarm status: "Fuel Alarm on L1." The Veeder Root setup identified L1 as the tank interstice. Facility representatives had no explanation for the failure to investigate the alarm. E16A is tank for Bldg #57

Response

Inspection of the alarm was conducted and the source of the leak although contained to the tank interstitial space has yet to be determined as excavation will be required to find the problem. The interstitial space had water within the sensor pipe which led to the alarm. The sensor was removed and cleaned and the water removed from the sensor pipe (approx ½ quart). Records of automatic tank tests conducted by the Veeder-Root monitor both prior to and following the site inspection by Mr. Zafonte show successful tank tests indicating that no product was lost or that the tank is leaking.

Test records for April 27, 2009 show all normal and successful tank test.
Test records for May 4, 2009 show all normal and successful tank test.
L1 tank interstitial alarm received 10:36am May 6, 2009.
Test records for May 11, 2009 show all normal and successful tank test.

Copies of tank test data have been supplied for verification.
This appears to be a chronic problem that we have not been able to correct. We have no alternative but to replace the tank. As soon as the fiscal year starts on October 1st we will *initiate* a project to replace this tank with an AST.

Exhibit #3

START IN-TANK LEAK TEST
TEST BY PROGRAMMED TIME
APR 27, 2009 12:01 AM

TEST LENGTH 3 HOURS

T 1:DIESEL
VOLUME = 1175 GALS
ULLAGE = 325 GALS
90% ULLAGE= 175 GALS
TC VOLUME = 1179 GALS
HEIGHT = 46.80 INCHES
WATER VOL = 0 GALS
WATER = 0.00 INCHES
TEMP = 51.7 DEG F

* * * * * END * * * * *

STOP IN-TANK LEAK TEST
T 1:DIESEL
APR 27, 2009 3:01 AM

VAPCL LYONS
BLDG. 57
LYONS, NJ
H09189031105005

APR 27, 2009 3:01 AM

LEAK TEST REPORT

T 1:DIESEL
PROBE SERIAL NUM 334858

TEST STARTING TIME:
APR 27, 2009 12:01 AM

TEST LENGTH = 3.0 HRS
STRT VOLUME = 1179.6 GAL

LEAK TEST RESULTS
0.10 GAL/HR TEST PASS

* * * * * END * * * * *

START IN-TANK LEAK TEST
TEST BY PROGRAMMED TIME
MAY 4, 2009 12:01 AM

TEST LENGTH 3 HOURS

T 1:DIESEL
VOLUME = 1177 GALS
ULLAGE = 323 GALS
90% ULLAGE= 173 GALS
TC VOLUME = 1180 GALS
HEIGHT = 46.87 INCHES
WATER VOL = 0 GALS
WATER = 0.00 INCHES
TEMP = 54.4 DEG F

* * * * * END * * * * *

STOP IN-TANK LEAK TEST
T 1:DIESEL
MAY 4, 2009 3:01 AM

VAPCL LYONS
BLDG. 57
LYONS, NJ
H09189031105005

MAY 4, 2009 3:01 AM

LEAK TEST REPORT

T 1:DIESEL
PROBE SERIAL NUM 334858

TEST STARTING TIME:
MAY 4, 2009 12:01 AM

TEST LENGTH = 3.0 HRS
STRT VOLUME = 1179.9 GAL

LEAK TEST RESULTS
0.20 GAL/HR TEST PASS

* * * * * END * * * * *

VAMCL LYONS
BLDG. 57
LYONS, NJ
H08189231105005

MAY 6, 2009 10:36 AM

SYSTEM STATUS REPORT

1 1:FUEL ALARM

INVENTORY REPORT

T 1:DIESEL	
VOLUME	1126 GALS
ULLAGE	374 GALS
90% ULLAGE	224 GALS
TC VOLUME	1128 GALS
HEIGHT	44.96 INCHES
WATER VOL	0 GALS
WATER	0.00 INCHES
TEMP	55.0 DEG F

* * * * * END * * * * *

START IN-TANK LEAK TEST
TEST BY PROGRAMMED TIME
MAY 11, 2009 12:01 AM

TEST LENGTH 3 HOURS

T 1:DIESEL
VOLUME = 1126 GALS
ULLAGE = 374 GALS
90% ULLAGE= 224 GALS
TC VOLUME = 1128 GALS
HEIGHT = 44.97 INCHES
WATER VOL = 0 GALS
WATER = 0.00 INCHES
TEMP = 55.9 DEG F

* * * * * END * * * * *

STOP IN-TANK LEAK TEST
T 1:DIESEL
MAY 11, 2009 3:01 AM

VAMCL LYONS
BLDG. 57
LYONS, NJ
H08189231105005

MAY 11, 2009 3:01 AM

LEAK TEST REPORT

T 1:DIESEL
PROBE SERIAL NUM 834350

TEST STARTING TIME:
MAY 11, 2009 12:01 AM

TEST LENGTH = 3.0 HRS
STRT VOLUME = 1128.3 GAL

LEAK TEST RESULTS
0.20 GAL/HR TEST PASS

* * * * * END * * * * *

VHA NRM Project Applications

Exhibit #4

NRM Project Application for VISN 3 - 561A4 New Jersey HCS - Lyons

Project Update History

Original Entry Date/Time: 10/16/2009 11:49:31 AM
Last Modified Date/Time: 4/12/2011 11:23:00 AM
Modified By: VHA03\VHAV03Musse$

General Data Section

Project Number:	561A4-10-122
Project Title:	UST Buildings 1, 14, 57, 147 & misc.
Approval Level:	VISN Funding Approved
Mental Health Project?	No
Station-Level Funded Project?	No
Project in Leased Space?	No
Budget Category:	FY2011 supplemental
Project Category:	Utilities Systems (Other)
Design Method:	Not Applicable
Construction Method:	Contract
Army Corps of Engineers Contracting or Project Management? *(Additional Army Corps of Engineers fields will only be shown if Yes.)*	No
Is an independent fire code review required?	Yes

Planned Obligation Date Section

Design Obligation Date:
Construction Obligation Date: 12/30/2010 **(FY 2011)**

Special Categories Data Section

Special categories may apply here based on the Fiscal Year of Design/Construction Obligation Date.

FCA Data Section

Does this Project Correct FCA Deficiency? No
(Additional FCA fields will be shown only if Yes.)

Project Funding Data Section

Construction $:	$400,000
Design $	
Design %: *[Calculated]*	
Total Project Cost: *[Calculated]*	$400,000
New Square Footage Project Costs:	$0
Total New Gross Square Footage:	0
Renovated Square Footage Project Costs:	$1,000
Total Renovated Gross Square Footage:	1,000

Energy Data Section

Does Project Result in Energy or Water Savings? No
(Additional fields will be shown only if Yes.)

Project Description Section

Description (Scope of Work):
Project is for the replacement of existing UST with new tanks and piping to comply with EPA regulations

Justification:
EPA requirement

Documentation Section

No documentation was returned.

Exhibit #5

USING SERVICE COPY (JAN 25, 2012@14:05:18)

ISSUING OFFICE:
Dept. of Veterans Affairs Medical Center
385 TREMONT AVE
EAST ORANGE, NJ 07018

REQUESTING SERVICE:
FACILITIES MANAGEMENT SERVICE(138)

DEL. TO: BLDG. 10, ROOM 215

VENDOR:
LJM ENGINEERING GROUP INC
439 US HIGHWAY 46 STE 3
ROCKAWAY NJ 07866-3631

973-586-3004 FAX: 973-586-3009
FMS Vendor Code: 221957398

SHIP TO:
WAREHOUSE EO C00330
V.A. Medical Center
LOGISTICS EAST ORANGE
385 TREMONT AVE
EAST ORANGE, NJ 07018-1095

DELIVERY HOURS:
8:00 TO 4:00

FOB POINT: DESTINATION
GOV'T BL #:
PURCHASE ORDER
DELIVER ON/BEFORE 9/30/2011
DISCOUNT TERM: NET30
SHIP VIA:

PROPOSAL: L. Muse

CONTRACT:
VA243-P-0233

MAIL INVOICE TO:
FISCAL (04)
VA MEDICAL CENTER
385 Tremont Avenue
EAST ORANGE, NJ 07018-1095

ITEM	DESCRIPTION	QTY	UNIT	UNIT COST	TOTAL COST
1	Project 561A4-10-122	1	JB	58119.00	58119.00

9. Tank serving Building 57: Remove existing 1500 gallon underground storage tank presently located on the opposite side of a building connecting link which separates the tank location from the generator building served by same. Provide new double wall underground 1500 gal fiberglass tank on the same side as the generator building. Provide new s/s jacketed S & R lines. New slab to be traffic bearing with bollards.

14. All new UG tanks to be double wall fiberglass.

15. For All Sites: Extend minimum 2' additional past new concrete pads (therefore overall + 10') on all sides with fabric mat or similar horizontal chain link buried + 6' below new slabs for ground hog deterrent.

ITEM	DESCRIPTION	QTY	UNIT	UNIT COST	TOTAL COST

16. All day tanks and vedcroot monitoring are new, therefore piping to day tanks only.

17. New slabs shall have new code 5 gal overspill.

18. Provide drop tubes, overfill and spill protection and color coding as required.
BOC: 2580 FMS LINE: 001 CONTRACT: VA243-P-0233

ITEMS CONTINUED ON NEXT PAGE

AUTHORITY FOR PURCHASE	P.O. NO.	PO DATE	TOTAL: 58119.00	
RFP	561-C00330	4/27/2010		
CONTRACTING OFFICER	DATE SIGNED	PHONE	FAX	
/ES/JOEL M. TAYLOR	4/30/2010@10:01	718-584-9000	718-741-4704	
E-MAIL: joel.taylor@va.gov				

FUND CERTIFICATION: The supplies/services listed on this request are properly chargeable to the following allotments, the available balances of which are sufficient to cover the cost thereof, and funds have been obligated.

APPROPRIATION: 3600162-5820 OBLIGATED BY: /ES/YOLANDA ALI DATE: 4/30/2010
COST CENTER: 854200 BOC1: 2580 AMOUNT1: 58119.00 FMS LINE: 001
SOURCE CODE: SUPPLY-2 FISCAL-3
FCP/PRJ. 23NRNR000

90-2138-7-ADP, JAN 1984

VISN NRM PROGRAM - DELIVERED TO GEORGE PIETRUSZKA - BLDG. 10 - X-4251 - RET'D TO SVC, RENUMBER FOR 3RD QTR AND CHANGE DELIVERY DATE (MW 138 4/1/10) VISN NRM PROJECT - DELIVER TO GARY BOEHNER, BLDG. 10, X-4265 - RET'D TO SERVICE, RENUMBER FOR 3RD QTR AND CHANGE DELIVERY DATE (MW 138 4/1/10)

V.A. TRANSACTION NUMBERS:
561-10-3-5820-0063

Exhibit #5

USING SERVICE COPY (JAN 25, 2012@14:05:18)

ISSUING OFFICE:
Dept. of Veterans Affairs Medical Center
385 TREMONT AVE
EAST ORANGE, NJ 07018

REQUESTING SERVICE:
FACILITIES MANAGEMENT SERVICE(138)

DEL. TO: BLDG. 10, ROOM 215

VENDOR:
LJM ENGINEERING GROUP INC
439 US HIGHWAY 46 STE 3
ROCKAWAY NJ 07866-3631

973-586-3004 FAX: 973-586-3009
FMS Vendor Code: 221957398

SHIP TO:
WAREHOUSE EO C00330
V.A. Medical Center
LOGISTICS EAST ORANGE
385 TREMONT AVE
EAST ORANGE, NJ 07018-1095

DELIVERY HOURS:
8:00 TO 4:00

FOB POINT: DESTINATION
GOV'T BL #:
PURCHASE ORDER
DELIVER ON/BEFORE 9/30/2011
DISCOUNT TERM: NET30
SHIP VIA:

PROPOSAL: L. Muse

CONTRACT:
VA243-P-0233

MAIL INVOICE TO:
FISCAL (04)
VA MEDICAL CENTER
385 Tremont Avenue
EAST ORANGE, NJ 07018-1095

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16. All day tanks and vederoot monitoring are new, therefore piping to day tanks only.

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BOC: 2580 FMS LINE: 001 CONTRACT: VA243-P-0233

ITEMS CONTINUED ON NEXT PAGE

AUTHORITY FOR PURCHASE RFP | P.O. NO. 561-C00330 | PO DATE 4/27/2010 | TOTAL: 58119.00

CONTRACTING OFFICER | DATE SIGNED | PHONE | FAX
/ES/JOEL M. TAYLOR | 4/30/2010@10:01 | 718-584-9000 | 718-741-4704
E-MAIL: joel.taylor@va.gov

FUND CERTIFICATION: The supplies/services listed on this request are properly chargeable to the following allotments, the available balances of which are sufficient to cover the cost thereof, and funds have been obligated.

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COST CENTER: 854200 BOC1: 2580 AMOUNT1: 58119.00 FMS LINE: 001
SOURCE CODE: SUPPLY-7 FISCAL-3
FCP/PRJ: 23NRNR000

90-2138-7-ADP, JAN 1984

VISN NRM PROGRAM - DELIVERED TO GEORGE PIETRUSZKA - BLDG. 10 - X-4251 - RET'D TO SVC, RENUMBER FOR 3RD QTR AND CHANGE DELIVERY DATE (MW 138 4/1/10) VISN NRM PROJECT - DELIVER TO GARY BOEHNER, BLDG. 10, X-4265 - RET'D TO SERVICE, RENUMBER FOR 3RD QTR AND CHANGE DELIVERY DATE (MW 138 4/1/10)

V.A. TRANSACTION NUMBERS:
561-10-3-5820-0063

Exhibit #6

TABLE 1

BUDGETARY COST ESTIMATE

UNDERGROUND STORAGE TANKS REMOVAL

VA LYONS, NJ FACILITY

PROJECT NO 561A4-10-122

April 1, 2011

Item	Task	A/E Estimate Total	IGE
	General Requirements		
	[illegible]	$2,500.00	3000.00
	[illegible]	$[illegible]	16800.00
	Project Management	$4,000.00	40000.00
	General Requirements SubTotal	**$10,000.00**	**59800.00**
	Mechanical and Electrical		
1	[illegible] AST	$52,750.00	
2	Provide new 1,000 gallon spill control AST [illegible]	$11,050.00	
3	[illegible]	$18,035.00	
4	Remove existing 1,000 gallon [illegible] tank, replace with new 1,000 gallon double wall [illegible]	$15,55[illegible].00	
	[illegible]		
5	Remove and replace existing [illegible] gallon underground tank with UST	$69,250.00	
6	[illegible] gallon tank (Steel tank)	$21,825.00	
7	[illegible] tank (Steel tank)	$21,825.00	
8	[illegible] tank (Steel tank)	$21,825.00	
9	[illegible] tank (Steel tank)	$21,825.00	
10	[illegible] 1,000 gallon tank (Steel tank)	$21,825.00	
11	[illegible] tank (Steel tank)	$21,825.00	
12	Remove and replace 1,000 gallon UST	$1[illegible],125.00	
13	[illegible]	$1,[illegible].00	
14	Post-Excavation Soil Sampling (Based on 5 days of field work)	$9,[illegible].00	
15	[illegible]	$4,[illegible].00	
	Mechanical and Electrical SubTotal	**$444,046.00**	**$444,046.00**
	Equipment, Materials, and Other Expenses		
1	NJDEP Tank Closure [illegible]	$450.00	
2	[illegible] Laboratory Analysis - TPHC [illegible]	$390.00	
	[illegible] capacity	$1,3[illegible].00	
	[illegible]	$2,200.00	
3	[illegible] and Incidental Expenses	$75.00	
	[illegible]	$750.00	
	Equipment, Materials, and Other Expenses SubTotal	**$5,645.00**	**$5,645.00**
	SubTotal	**$459,691.00**	509491.00
	Contingency - 15%	$68,953.65	
	SubTotal	**$528,644.65**	
	Overhead - 10%	$52,864.47	
	SubTotal	**$581,509.12**	
	Profit - 10%	$[illegible]	**107000.00**
	SubTotal	**$639,660.03**	616491.00
	Bonding - 3%	$19,189.80	15412.00
	Grand Total - Construction Cost Estimate	***$658,849.83***	**631903.00**

Note: [illegible]

DiTeodoro, Jack

From: Fanek, Marwan
Sent: Monday, January 30, 2012 9:41 AM
To: DiTeodoro, Jack
Cc: Cliffe, John; DiGasper, Linda
Subject: USEPA-Region 2 Complaint / Hudson Valley Response
Attachments: Response to Regional Counsel (EPA Complaint).doc; EPA 3-19-09 alleged violations letter.pdf; EPA 3-19-09 NOV FINAL Response.doc; EPA 3-19-09 NOV _Response to Info request+Tank Info.xls; EPA 3-19-09 NOV - Response Certification by Director.doc; HVHCS Follow-up toEPA 3-19-09 NOV (Due 7-31-09).doc

Importance: High

Hi,
Attached is the facility's response and documents pertaining to Count 6 of the complaint per your request. Please let me know if you have any questions or require additional information. Thanks.

Please consider the environment before printing this email.

Marwan Fanek, MChE, CHSP
Green Environmental Management System (GEMS) Coordinator
Hudson Valley Health Care System
Montrose Office ☎ (914) 737-4400 ext. 2321
Castle Point Office ☎ (845) 831-2000 ext. 5726
Cell ☎ (914) 755-1191
Fax (914) 788-4309
E-mail marwan.fanek@va.gov

Sustainability is the art of balancing and keeping in existence the economy, wellbeing, and the environment without diminishing our resources. As life supporting resources decline, we have to continually work to make things better.

USEPA Allegation:
USEPA is alleging a violation of CFR 40 CFR 280.41(b)(2) for failure to conduct a line tightness test every three years, or use a monthly monitoring method for the piping of UST System 2A.

Regulations:
Pursuant to 40 CFR 280.41(b), underground piping that conveys regulated substances under suction must (unless the system meets 40 CFR 280.41(b)(2)(i) thru (v)) either:

1. Have a line tightness test conducted at least every three years in accordance with 280.44(b), or

2. Use a monthly monitoring method conducted in accordance with 280.44(c).

Pursuant to 40 CFR 40 CFR 280.41(b)(2)(i) thru (v), no release detection is required for suction piping that meets the following standards:

i. The below-grade piping operates at less than atmospheric pressure;
ii. The below-grade piping is sloped so that the contents of the pipe will drain back into the tank if the suction is released;
iii. Only one check valve is included in each suction line;
iv. The check valve us located directly below and as close as practical to the suction pipe; and
v. A method is provided that allows compliance with the standards (ii) – (iv) to be readily determined.

U.S. VA Response:
40 CFR 280.41(b) requires either a line (pipe) tightness test every three years or a monthly monitoring method. Suction piping system may be used in lieu of conforming to 280.41(b).

The tank system has been equipped, since it was installed in 1998, with a VeederRoot Automatic Tank Gauge (ATG) to continuously monitor releases from the inner wall of the double-walled piping into the tank-top sump. The ATG consists of a sensor located in the tank-top sump to detect the presence of any liquids released from the inner wall of the tank piping. As recommended by USEPA at the time of the February 2009 inspection, the sensor was immediately moved to a more favorable location within the tank-top sump (moved about 3 inches to a lower point). The ATG is connected to a control box located in a manned office. It is monitored by employees. It also sounds an alarm in the tank area and in the office if a release is detected. The VA also maintains daily print-outs from the ATG to document no release events, alarms, system tests, and fuel level. The ATG system, being a continuous interstitial monitoring system meets 280.43(g) as referenced in 280.44(c) and 280.41(b)(2).

The USEPA is concerned that the pipe does not meet safe suction requirements of 280.41(b)(2)(i) thru (v). As stated above, safe suction is not required when an ATG system or monthly monitoring is in place. Nonetheless, the VA demonstrated good faith effort by also conforming to the pipe safe suction system requirements of 280.41(b)(2)(i) thru (v). Safe suction was achieved by simply relocating a check valve closer to the dispenser.

Paragraph 70 states "During the February 2009 Inspection, the EPA representative observed that the piping for UST System 2A did not seem to have the necessary slope as required by 40 CFR 280.41(b)(2)(ii). The VA wants to point out that the piping is underground and cannot be viewed or reasonably conclude that the necessary slope did not meet the requirement 280.41(b)(2)(ii) at the time of inspection. The VA took measurements and confirmed that the pitch is 9.25 inches (pipe is sloped towards the tank).

In addition, in 2009 the VA voluntarily secured $750,000 funding for a construction project to improve and ensure all above- and underground storage tanks were in compliance with USEPA, NYSDEC and local regulations. At this time, the tanks project is substantially completed.

The VA strives to comply with relevant USEPA and NYSDEC regulations and respectfully requests the USEPA to reconsider rescinding count 6 of the complaint.

N/S01
OO
Eng √

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

Pls add to
COC as a
spreadsheet

MAR 19 2009

CERTIFIED MAIL-RETURN RECEIPT REQUESTED
Article number:

Gerald Culliton
U.S. Department of Veterans Affairs
Hudson Valley Healthcare System, Montrose
P.O. Box 100
2094 Albany Post Road
Montrose, NY 10548

Re: **NOTICE OF VIOLATION**
Request for Information Pursuant to Section 9005 of the Solid Waste Disposal Act, as amended **FF-UST-IR-09-010**
U.S. Department of Veterans Affairs Hudson Valley Healthcare System, Montrose

Dear Mr. Culliton:

The U.S. Environmental Protection Agency (EPA) is charged with the protection of human health and the environment under the Solid Waste Disposal Act, as amended (often referred to as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 et seq).

On or about February 12, 2009, a representative of the EPA conducted an inspection of the underground storage tanks (USTs) at the U.S. Department of Veterans Affairs Hudson Valley Healthcare System, Montrose, P.O. Box 100, 2094 Albany Post Road, Montrose, NY 10548, pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a), and 40 C.F.R. § 280.34. This Notice of Violation (NOV) addresses the UST violations identified during the February 12, 2009 inspection at the facility, and requests additional information regarding management of the UST systems at the facility. The NOV portion of this letter (see Enclosure I) is issued pursuant to Section 9006 of the Solid Waste Disposal Act, as amended by the Hazardous and Solid Waste Amendments Act of 1984 ("HSWA") and RCRA, 40 U.S.C. § 6991(e). Issuance of this NOV and compliance with its terms do not preclude EPA from taking any other formal enforcement action against the U.S. Department of Veterans Affairs Hudson Valley Healthcare System, Montrose under § 9006 of RCRA, 42 U.S.C. § 6991, or any other applicable regulation or statute.

Pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a), and 40 C.F.R. § 280.34, you are hereby also required to submit the information requested in Enclosure III using the instructions and definitions in Enclosure II. This additional information is required to evaluate the full regulatory and compliance status of the USTs at the facility. Please provide the information requested no later than **thirty (30) calendar days** from the date of receipt of this letter. Requests

for additional time must be justified, and must be requested in writing within ten (10) calendar days of your receipt of this letter. Violation of Federal UST regulations may result in penalties of up to $11,000 per UST system per day of violation.

The response or request for additional time must be submitted to the following addressee:

Charles Zafonte
Multimedia Enforcement Coordinator
U.S. Environmental Protection Agency, Region 2
290 Broadway, 21st Floor
New York, NY 10007-1866

An officer or agent who is authorized to respond on behalf of the U.S. Department of Veterans Affairs Hudson Valley Healthcare System, Montrose must complete and sign the attached Certification page (Enclosure IV), and return it with your response to the NOV/IRL.

Subject to 40 C.F.R. Part 2, you may assert a business confidentiality claim covering all or part of the information herein requested. The claim may be asserted by placing on (or attaching to) the information at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret", "proprietary", or "company confidential". The claim should set forth the information requested in 40 C.F.R. Section 2.204(e)(4). Information covered by such a claim will be disclosed by EPA only to the extent permitted by, and by means of procedures set forth in, 40 C.F.R. Part 2. EPA will review the information to determine the extent of confidentiality of the information, and may, at its discretion, evaluate the confidentiality claim pursuant to procedures set forth at 40 C.F.R. Part 2. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

The NOV/IRL is not subject to the requirements of the Paperwork Reduction Act (PRA), as amended, 44 U.S.C. §§3501 et seq.

Failure to respond to this letter truthfully and accurately within the time provided may subject you to sanctions authorized by federal law.

If you have any questions concerning the information requested, please contact Charles Zafonte at (212) 637-3515. I urge your prompt attention to this matter.

Sincerely yours,

George C. Meyer, P.E., Chief
RCRA Compliance Branch
Division of Enforcement and Compliance Assistance

Enclosures

cc: Linda DiGasper
Marwan Fanek
U.S. Department of Veterans Affairs Hudson Valley Healthcare System, Montrose (same address)

ENCLOSURE I
NOTICE OF VIOLATION

The following violations were identified by the EPA representative during the February 12, 2009 inspection of the U.S. Department of Veterans Affairs Hudson Valley Healthcare System, Montrose, P.O. Box 100, 2094 Albany Post Road, Montrose, NY 10548.

Pursuant to 40 CFR § 280.31a, all corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances.

- UST #8 stores 2,500 gallons of diesel fuel for Day Tank #18 and its emergency generator. It is required thus to have corrosion protection. It was observed that there was only a small amount of water in the tank-top sump, but that the piping in the tank-top sump was rusting extensively, evidencing extended periods of time in contact with water.
- UST #14A stores 600 gallons of diesel fuel for direct supply to an emergency generator. It is required thus to have corrosion protection. It was observed that the steel components in the tank-top sump were rusting extensively, evidencing extended periods of time in contact with water.

Pursuant to 40 CFR § 280.41a, Tanks must be monitored at least every 30 days for releases and records must be maintained for twelve months.

- Tanks 1A and 2A were monitored by a Veeder Root 350. The release detection by the Veeder Root 350 was recorded in 2008, except beginning when the printer malfunctioned in October 2008. The facility used inventory records until the Veeder Root system was repaired at approximately the end of the year. Since the tanks were installed in December 1998, inventory control is acceptable until December 2008, if tank tightness is tested at least every five years. However, the facility could provide no documentation of tank tightness testing.

Pursuant to 40 CFR § 280.41b2, underground piping that conveys regulated substances under suction must either have a line tightness test conducted at least every 3 years, or use a monthly monitoring method. No release detection is required for suction piping that is designed and constructed to meet the standards for safe suction. Safe suction must comply with 40 CFR § 280.41b2i through v, including a method that allows compliance with paragraphs b2ii – iv of this section to be readily determined.

- USTs #1A and #2A store 5,000 gallons of diesel and 1,000 gallons of gasoline, respectively, for vehicles, and thus are subject to all Part 280 regulations, including release detection for piping. The piping entering the dispensers for USTs #1A and #2A appear to be at a depth relative to the USTs that make it unclear whether 40 CFR § 280.41b2ii is satisfied, that is, that the below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released.
- It was observed that the tank-top sump bottoms for USTs #1A and #2A had significant gradients, conforming to the rounded tank tops, especially severe for the gasoline tank sump, and that the sump sensors were installed at the highest point in the sumps, thereby compromising their ability to detect leaks from piping.

- It was observed that rubber test boots on piping in the tank-top sumps fit tightly around piping, making it unclear whether the annulus is open to the sump, so as to allow fuel leaking from piping to flow into the sump.

Pursuant to 40 CFR § 280.53b, owners and operators of UST systems must immediately clean up a spill or overfill of petroleum.

- The facility's Tank 1A stored diesel fuel and had a spill bucket that was observed to contain a few inches of fuel. Facility representatives reported that the fuel was removed on the day of the inspection.

ENCLOSURE II

INSTRUCTIONS AND DEFINITIONS

In responding to this NOV/IRL, apply the following instructions and definitions:

1. The signatory should be an officer or agent who is authorized to respond on behalf of the U.S. Department of Veterans Affairs Hudson Valley Healthcare System, Montrose, P.O. Box 100, 2094 Albany Post Road, Montrose, NY 10548. The signatory must sign the attached Certification of Answers (Enclosure IV) and return it with the response to this NOV/IRL.

2. A complete response must be made to each individual question in this NOV/IRL. Identify each answer with the number of the question to which it is addressed.

3. In preparing your response to each question, consult with all present and former employees and agents of the U.S. Department of Veterans Affairs Hudson Valley Healthcare System, Montrose who you have reason to believe may be familiar with the matter to which the question pertains.

4. In answering each question, identify all contributing sources of information.

5. It is your responsibility to try to obtain any information pertinent to any question. If you are unable to answer a question in a detailed and complete manner or if you are unable to provide any of the information or documents requested, indicate the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any question, state that person's name and last known address and phone number and the reasons for your belief.

6. If you cannot provide a precise answer to any question, please approximate and state the reason for your inability to be specific.

7. For each document produced in response to this NOV/IRL, indicate on the document or in some other reasonable manner the number of the question to which it applies.

8. If anything is deleted from a document produced in response to the NOV/IRL, state the reason for and the subject matter of the deletion.

9. If a document is requested but is not available, state the reason for its unavailability. In addition, identify any such document by author, date, subject matter, number of pages, and all recipients and their addresses.

10. Unless the question clearly provides otherwise, each question must be answered for the UST systems at the U.S. Department of Veterans Affairs Hudson Valley Healthcare System, Montrose, P.O. Box 100, 2094 Albany Post Road, Montrose, NY 10548.

11. The facility, for the purposes of the NOV/IRL, is the U.S. Department of Veterans Affairs Hudson Valley Healthcare System, Montrose, P.O. Box 100, 2094 Albany Post Road, Montrose, NY 10548.

12. Underground storage tank or UST shall be defined, for the purposes of this NOV/IRL, as any one or combination of tanks (including 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. See 40 C.F.R. § 280.12.

13. Underground storage tank system or UST system shall be defined, for the purposes of this NOV/IRL, as an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any. See 40 C.F.R. §280.12.

14. A facility, for the purposes of this NOV/IRL, is defined as the property on which USTs are or were previously located.

15. Owner shall be defined, for the purposes of this NOV/IRL, as any person who owns an UST system used for storage, use, or dispensing of regulated substances. See 40 C.F.R. § 280.12.

16. Operator shall be defined, for the purposes of this NOV/IRL, as any person in control of, or having responsibility for, the daily operation of an UST system. See 40 C.F.R. § 280.12.

17. NYSDEC shall be defined as the New York State Department of Environmental Conservation.

18. Unless indicated otherwise, all questions should be answered for the time period ending February 11, 2009 (i.e., prior to commencement of the EPA inspection).

ENCLOSURE III

INFORMATION REQUEST

1. For the violations cited in the NOV:

   (a) If you believe these violations do not exist, provide a detailed explanation and copies of any supporting documentation demonstrating compliance with the federal UST regulations cited in the NOV. If such documentation is not available, please provide a detailed explanation as to why they are not available including any regulatory exemptions that are claimed;

   (b) Provide a description of the actions taken to correct the violations cited in the NOV;

   (c) Provide documentation verifying that the violations have been corrected, including photographs, where applicable; and

   (d) Provide an account of changes in facility management practices sufficient to prevent a recurrence of said violations.

General UST Information

2. Provide a copy of the most recent UST registration questionnaire (required to be provided to the NYSDEC) and a copy of the current registration certification.

3. Provide the day, month, and year that each UST was installed.

4. Provide the capacity of each UST, indicate the regulated substances currently stored, or that were stored, in each UST, and how the stored substance is/was used, e.g., for fueling vehicles. Include the results of any test conducted to determine if the contents of any UST are subject to regulation under Subtitle C of RCRA.

5. Provide the construction material of tank and piping for each UST system, and the name of the manufacturer of each part of the UST system. If there have been any changes in materials since installation, provide the date of each change, and the construction material of tank and piping for each UST system, and the name of the manufacturer of each part of the UST system, as the UST system existed before and after the change.

Overfill, Spill, and Corrosion Protection

6. Provide information on the overfill and spill protection procedures and/or equipment used to ensure that overfilling and spilling do not occur.

7. If any portion of any UST System is or was metal, in response to question #5, submit documentation on corrosion protection, including the extent of the UST system that the cathodic protection system is/was designed to protect from corrosion, and the last two

system tests. If since installation of the UST, any portion of an UST System has been changed in composition, and/or the corrosion protection for an UST System has been changed, provide all details, including the extent of the UST system that the cathodic protection system was designed to protect from corrosion, and all documentation of the actual corrosion protection afforded by the system.

Leaks and Leak Detection

8. Please provide for each UST the method(s) of leak detection used to comply with the leak detection regulations found in 40 C.F.R. §280.40 to § 280.45, or used voluntarily to detect leaks, along with:

   (a) A detailed description of how the leak detection method(s) is implemented;

   (b) Documentation demonstrating that the leak detection was implemented during the last 12 months; and

   (c) If the leak detection method is Automatic Tank Gauging (ATG) as per 40 C.F.R. §280.43(d), please also state the manufacturer and model of the ATG along with a description of its capabilities.

   (d) If the leak detection method is vapor or groundwater monitoring as per 40 C.F.R. §280.43(e) or (f), please also state how the requirements of those sections are met.

   (e) If safe suction is used to prevent releases from piping, document that the construction meets all requirements of Part 280, including piping slope and the absence of any valves, except immediately under the dispensers.

   (f) If interstitial monitoring of the tank is used, provide interstitial design details and whether it can detect: (a) a breach in the inner and outer tank walls; or (b) an ingress of product and water into the interstitial space.

9. Provide all information pertaining to known or suspected releases between December 22, 1988, and the date of your response, including, at a minimum, the following information:

   (a) All recorded alarms (false or otherwise) from leak detection systems, from any of the UST systems;

   (b) Corrective actions taken with respect to releases; and

   (c) Include any sampling analysis results and all state documentation such as release notifications and state correspondence.

Closure

10. If any UST system was temporarily closed or out of service between December 22, 1988 and the date of your response, please provide:

(a) The date it was temporarily closed, or taken out of service;

(b) The period of time it was closed, or non-operational; and

(c) Whether the UST system was empty, as defined by 40 C.F.R. § 280.70 (a), during the period of temporary closure.

11. If any UST system is permanently closed, or if there was a change in service from regulated to non-regulated substances, provide:

(a) The date of permanent closure or the change in service; and

(b) A copy of the site assessment report required by 40 C.F.R. §280.72.

UST Maintenance

12. Describe how each UST is maintained (e.g., how is an UST cleaned when cleaning is required, who is responsible for initiating the cleaning, who performs the cleaning, etc.).

13. If any tank has been cleaned of sediments or scale, provide for each cleaned tank:

(a) The date of cleaning;

(b) The name of the company that performed the cleaning;

(c) The volume of waste liquid generated by the cleaning operation; and

(d) Copies of any Toxicity Characteristic Leaching Procedure (TCLP) test (EPA test method 1311) conducted on the material cleaned from the tanks to make a hazardous waste determination.

UST Owner/ Operator History

14. Provide the month/ day/ year that the U.S. Department of Veterans Affairs Hudson Valley Healthcare System, Montrose began ownership and/ or operation of each UST system. Specify owner and/or operator status, whichever is applicable.

15. Provide the names and addresses of other entities that own and/or operate USTs at the facility, or that have owned or operated such USTs.

16. Please describe the legal relationship between the owner of the property and the operator of the facility. Provide documentation supporting your statements.

17. If any USTs are/were owned or operated by any other Federal agency or private company, please provide:

(a) The location of such USTs;

(b) The name and address of the Federal agency or private company;

(c) Indication of whether the Federal agency or private company is/was the owner or operator; and

(d) The information requested in questions 1 through 16 above, with respect to such USTs.

ENCLOSURE IV

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in response to EPA's Notice of Violation / Request for Information, and all documents submitted herewith; that the submitted information is true, accurate, and complete; and that all documents submitted herewith are complete and authentic, unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Name (print or type)

_____ _____

SIGNATURE DATE

_____

TITLE

_____

AGENCY

Department of Veterans Affairs
Hudson Valley Health Care System
PO Box 100
Montrose, New York 10548

Castle Point Campus
Castle Point, NY 12511

FDR Campus
P.O. Box 100
Montrose, NY 10548

April 15, 2009

Mr. Charles Zafonte
Multimedia Enforcement Coordinator
US Environmental Protection Agency, Region 2
290 Broadway, 21st Floor
New York, NY 10007-1866

Re: US Department of Veterans Affairs Hudson valley Health Care System, Montrose, NY. March 19, 2009 Notice of Violation and Request for Information

Dear Mr. Zafonte,

The US Department of Veterans Affairs Hudson Valley Health Care System (HVHCS) at the Montrose, NY, facility received the above referenced Notice of Violation (NOV) on March 30, 2009. The NOV alleges four violations of regulation promulgated under 40 CFR 280 pertaining to underground storage tanks. The NOV was issued based on your February 12, 2009 multimedia inspection of the HVHCS site located at 2094 Albany Post Road, Montrose, NY 10548. In addition, you requested additional information pursuant to Section 9005 (a) of RCRA, 42 USC 6991d(a), and 40 CFR 280.34. The HVHCS is submitting this letter as a good-faith effort to resolve the concerns raised in the NOV.

Allegation #1: The steel components of piping in the tank-top sump of underground storage tanks (UST) #8 and #14A are required to have corrosion protection per 40 CFR 280.31a.

The HVHCS re-inspected USTs # 8 and 14A. The rust was removed by scraping, priming and painting steel pipe component. It was also confirmed that the steel piping is not in contact with the ground. To prevent future rusting, the HVHCS will maintain the sump cover gaskets in order to prevent water from entering the sump. Tank-top sump monthly inspections have been instituted to identify rust and other concerns to ensure timely response to rusting or other concerns.

Allegation #2: UST # 1a and # 2A electronic release detection system (Veeder Root 350) malfunctioned in September 2008. The facility used weekly inventory records until the system was repaired in January 2009. Since the tank was installed in 1998, inventory control is acceptable provided a tank tightness test is conducted every five years.

The HVHCS did not conduct a UST integrity testing within the five years prior to September 2008 because it had installed an Automatic Tank Gauge (ATG) as the tank leak detection method. UST's with ATGs are not required to have a tightness test. As the HVHCS operator explained at the time of your inspection, they initiated the weekly tank volume control measure during the time (about three months) the printer malfunctioned. The regulations however do not prescribe specific steps to be taken when an ATG malfunctions. The HVHCS's decision to revert to volume measurements was appropriate. It should be noted that the ATG (Veeder Root 350R system) has been repaired and is being monitored on a daily basis.

To prevent future recurrence, the HVHCS will procure a service contract to correct Veeder Root problems within 30 days of discovering a problem to ensure uninterrupted use of the tank in the future. In addition, the site will ensure that the Veeder Root system is inspected and certified once a year to ensure it is properly maintained.

Allegation #3: Underground piping associated with USTs # 1A and #2A are not complying with 40 CFR 280.41b2 which requires piping to either have a line tightness test every three years or use a monthly monitoring method.

You indicated in the NOV letter that it couldn't be verified at the time of the inspection whether the underground piping is sloped so that the content of the pipe will drain back into the storage tank if the suction is released. The EPA is concerned that sump sensors in the tank-top sumps were installed at the highest point in the sumps, thus compromising their ability to detect leaks from piping. The sensors have been relocated to the lower end in each sump. It is important to note that there is no evidence of leak in the tank sumps. The EPA is also concerned about the presence of rubber test boot on piping in the tank-top sump preventing pipe leak to flow into the sump. The rubber boot has an open valve on the bottom of the boot to allow leaks to enter and be detected in the tank-top sump. To ensure free flow of liquid, the boot has been pushed back.

We don't believe that a violation of 40 CFR 280.41b2 has occurred. It is our belief that the piping between the tank-top sum and the dispenser is suction piping (also known as safe suction) based on the following visual observations: (1) there is no more than one check valve located at the top of the pipe run, and (2) piping operates under less than atmospheric pressure evident by the dispensing pump located at the dispensing end of the pipe. To confirm the presence of safe suction piping, the HVHCS will procure a vendor to evaluate and confirm the existence of safe suction piping. Documentation will be submitted to your office by July 31, 2009.

Allegation #4: Tank 1A spill bucket was observed with few inches of fuel. 40 CFR 280.53b requires immediate cleanup of spills or overfills of petroleum product.

As you have indicated in your letter, the fuel was removed on the day of the inspection. We have also instituted steps to examine the spill bucket after each delivery. It is important to note that at the time of the inspection, there was no evidence of diesel fuel spill outside the fill contained bucket.

Other Information Request:
Attached please find the HVHCS' response to the additional information requested.

Our employees, at the HVHCS, strive to ensure compliance with relevant environmental regulations and value your suggestion and feed back regarding the responses provided above. If you require additional information, please do not hesitate to contact Mr. John Cliffe, Engineering Service Chief at (914) 737-4400 ext. 2138.

Sincerely,

Gerald Cuiliton
Director

cc: John Cliffe
Linda DiGasper
Marwan Fanek

Response to USEPA's 03/19/2009 Information Request

A copy of the most recent UST registration questionnaire	To be submitted by July 31, 2009
A copy of the UST registration certification	Attached
Each UST day/month/year installed	See attached list of active tanks
Each UST Capacity	See attached list of active tanks
For each UST, material currently stored and how its used	See attached list of active tanks
For each UST, material that was stored and how it was used	No changes since installation
For each UST, construction material of tank	See attached list of active tanks
For each UST, construction material of piping	See attached list of active tanks
For each UST, name of manufacturer of each part of UST system	To be submitted by July 31, 2009
For each UST, if there is change in material since installation, provide construction material of tank and piping, and manufacturer of all parts before the change. Also provide the date of each change	No changes since installation
For each UST, overfill and spill protection procedures and/or equipment used to ensure overfill/spill do not occur	See attached list of active tanks
For each UST's metal parts, submit documentation on corrosion protection and how cathodic protection is designed to protect from corrosion.	To be submitted by July 31, 2009
The last two cathodic protection system tests	To be submitted by July 31, 2009
For each UST, provide detailed description of how the leak detection method is implemented	See attached list of active tanks.
Documentation demonstrating leak detection was implemented during the last 12 months	VA will procure vendor and will submit by July 31, 2009
If ATG, state the manufacturer and model of ATG along with a description of its capabilities	To be submitted by July 31, 2009
If safe suction, document that the construction meets safe suction design, including pipe slope and absence of any valves (except immediately under dispenser)	To be submitted by July 31, 2009
If interstitial monitoring used, provide design details and how the system detects breach from inner and outer shell	To be submitted by July 31, 2009
Information on known or suspect releases since 12/22/1988 and the date of response	None on record
All recorded alarms (false or otherwise)	To be submitted by July 31, 2009
Corrective action with respect to each release, sampling and state notification	No spills on record
For tanks temporarily closed since 12/22/1988, provide, date taken out of service, period of time closed or non-operational, whether the tank was empty during that period	No tanks have been temporarily closed
For tanks permanently closed or use was changed to non-regulated substance, provide date of permanent closure or change in service, and a copy of the site assessment report	See enclosed assessments for the seven closed tanks in the attached Reports # 1, 2 and 3
How is each tank maintained (e.g. cleaned, how, when, by who, etc.)	Visual inspections and product quality control

If UST is cleaned, provide date, name of cleaning company, volume of waste generated, copy of TCLP test	No USTs are cleaned
Provide date the VA began ownership and/or operation of each UST	Same date as installation date provided in the attached tank list
Are there are other entities that own/operate or have owned/operated UST at this site	No.
Describe the legal relationship between owner of property and operator of facility	VA owned and operated
For UST that are/were owned or operated by other federal agencies or private companies, provide UST location, name and address of agency or private company, explanation as to whether it is or was owner or operator, and all information requested above.	Not applicable.

ENCLOSURE IV

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in response to EPA's Notice of Violation / Request for Information, and all documents submitted herewith: that the submitted information is true, accurate, and complete; and that all documents submitted herewith are complete and authentic, unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Name (print or type): Gerald Culliton

_____ _____

SIGNATURE DATE

DIRECTOR

TITLE

U.S. DEPARTMENT OF VETERANS AFFAIRS

AGENCY

Department of Veterans Affairs
Hudson Valley Health Care System
PO Box 100
Montrose, New York 10548

Castle Point Campus
Castle Point, NY 12511

FDR Campus
P.O. Box 100
Montrose, NY 10548

July 31, 2009

Mr. Charles Zafonte
Multimedia Enforcement Coordinator
US Environmental Protection Agency, Region 2
290 Broadway, 21st Floor
New York, NY 10007-1866

Re: US Department of Veterans Affairs Hudson Valley Health Care System, Montrose, NY. Follow-up to the April 15, 2009 Letter and March 19, 2009 and Request for Information

Dear Mr. Zafonte,

The US Department of Veterans Affairs Hudson Valley Health Care System (HVHCS) is submitting the following additional information as described in our April 15, 2009 letter concerning the above referenced Notice of Violation (NOV):

1. A copy of the most recent underground storage tank (UST) registration questionnaire: A copy is attached.

2. For each UST, name of manufacturer of each part of UST system: The name of the manufacturer could not be identified. We have exhausted our effort by reviewing files, project managers inquiries, and review of the permitting agency records but could not identify information relevant to the manufacturer.

3. For each UST's metal parts, submit documentation on corrosion protection and how cathodic protection is designed to protect from corrosion: Based on existing records, the UST's are made of fiberglass. As such, they don't require corrosion protection. However, in a recent evaluation of all of the tanks we have identified product steel associated with Tank No. 8. The steel piping will be removed and replaced with fiberglass. Also part of this project is to confirm the material of the tank itself to ensure that it is fiberglass. See the attached letter from our contractor.

4. The last two cathodic protection system tests: There is no record of cathodic protection system tests because we believe that the USTs are made of fiberglass.

5. Documentation demonstrating leak detection was implemented during the last 12 months: As was verified during the February 12, 2009, each of the tanks is equipped with a Veeder-Root system for leak detection. Attached please find the available documentation for each of the USTs.

6. If Automatic Tank Gauge (ATG) is used, state the manufacturer and model of ATG along with a description of its capabilities: Each of the USTs is equipped with a Veeder-Root ATG which electronically monitors product levels, water levels, temperature, interstitial space, and leak tests. The ATG's are equipped with a tank configurable console with an integral printer, and provide an automatic continuous leak sensing: tank interstitial space; including piping tank-top sump, an audible alarm and display for leak alert. The system warnings and alarms are activated for leak, overfill, low product, sudden loss, high water, delivery needed, and test failure. The tank-top sumps and interstitial space is monitored using float sensors. These are activated for fuel presence. The ATG's model number for each of the USTs are:
    - Tank # 1A - Veeder-Root Model TLS-350R
    - Tank # 2A - Veeder-Root Model TLS-350R
    - Tank # 7 – Veeder-Root Model TLS -300C
    - Tank # 8 – Veeder-Root Model TLS -350
    - Tank # 14A – Veeder-Root Model TLS -300C

7. If safe suction, document that the construction meets safe suction design, including pipe slope and absence of any valves: Our contractor inspected the 1,000 gallon UST No. 2A and confirmed by field inspection that the pipe between the tank and dispenser is sloped towards the tank. However, the tank inspection revealed a check valve at the tank end. This check valve will be removed to conform to a safe suction system. It should be noted that the pipe is double walled and is sloped towards the tank-top sump. Any leaks from the pipe would flow into the tank-top sump where it would be detected by the Veeder-Root system. The tank project includes the removal of the check valve.

8. If interstitial monitoring used, provide design details and how the system detects breach from inner and outer shell: The interstitial space is monitored using the Veeder-Root system described above. This is constant monitoring that would trigger an alarm for any change in interstitial space media.

9. All recorded alarms (false or otherwise): No records are available. We have instituted a program change to ensure records are maintained.

Please note that the site has retained a KBA Engineering to evaluate and bring into compliance all under- and aboveground tanks. The evaluation is now complete and the project has entered its design phase (see attached letter from KBA). In addition, the site has initiated additional UST inspections (copy attached), relocated the leak detection probes in the each of the tank-top sumps, trained our employees, took action to prevent waste from entering the tank-top sumps, and retained American Petroleum Equipment & Construction Company to conduct Veeder-Root maintenance, repair and annual testing as my staff continues to monitor the tanks closely to ensure compliance.

The HVHCS and its employees continue to strive to excel in the area of compliance with relevant USEPA environmental regulations and welcome your comments regarding this matter. If you require additional information, please do not hesitate to contact Mr. John Cliffe, Engineering Service Chief at (914) 737-4400 ext. 2138.

Sincerely,

Gerald Culliton
Director

cc: John Cliffe
Linda DiGasper
Marwan Fanek

DiTeodoro, Jack

From: Sigona, Anthony
Sent: Wednesday, January 18, 2012 4:44 PM
To: DiTeodoro, Jack; Patnode, Rosemary
Cc: Favale, Maria; Butcher, Keith; Errichiello, Louis; Sekowski, Lester
Subject: RE: USEPA Complaint & Compliance Order / Docket No. RCRA-02-2012-7502 (Conf Call Info)
Attachments: AnswerComplaint.Dec.29.2011.docx; Complaint.Dec.29.2011.pdf; Complaint.Dec.29.2011.docx; USEPA.NOV.March2009.pdf; NOPOVAMC.Response.CorrectiveAction.May2009.pdf; GEMSRecommendationComplaint.Jan17.2011.docx; NOPOVAMC.Response.CorrectiveAction.January2009.pdf; NOPOVAMC.Response.CorrectiveAction.April2009.pdf

Dear Mr. DiTeodoro,

As per our internal discussions at the Northport VAMC with our Senior Management, please find eight (8) attached documents with information which I would hope you are able to review in connection with our proposed conference call tomorrow at 10:00 A.M.

I apologize for any inconvenience in not contacting you earlier as I am relatively new at the VA. However, I hope these materials will provide a substantive response for the VAMC.

Sincerely,

ANTHONY J. SIGONA, P.E.
Green Environmental Stewardship Systems Coordinator

Northport VA Medical Center
Building 17 • Room 112
79 Middleville Road
Northport, NY 11768

E: anthony.sigona@va.gov
O: 631.261.4400 ext 7509
M: 631.388.3062
F: 631.863.4864

From: Fanek, Marwan
Sent: Tuesday, January 17, 2012 8:41 AM
To: DiTeodoro, Jack; Patnode, Rosemary; Levins, Peter J.; Sigona, Anthony
Subject: RE: USEPA Complaint & Compliance Order / Docket No. RCRA-02-2012-7502 (Conf Call Info)

Let's do this one more time. Thursday the 19th at 10:00 AM for 80 minutes (after the GEMS conf call). Rosemary, Pet, Anthony, please let me know if good to go. Thanks.

From: DiTeodoro, Jack
Sent: Tuesday, January 17, 2012 8:34 AM
To: Patnode, Rosemary; Fanek, Marwan; Levins, Peter J.; Sigona, Anthony
Subject: Re: USEPA Complaint & Compliance Order / Docket No. RCRA-02-2012-7502 (Conf Call Info)

Good morning, guys, unfortunately, I am out tomorrow. I am available any time Thursday or Friday any time up to 1.

From: Patnode, Rosemary
To: Fanek, Marwan; DiTeodoro, Jack; Levins, Peter J.; Sigona, Anthony
Sent: Tue Jan 17 08:25:08 2012
Subject: RE: USEPA Complaint & Compliance Order / Docket No. RCRA-02-2012-7502 (Conf Call Info)

Ok with me.

From: Fanek, Marwan
Sent: Tuesday, January 17, 2012 8:24 AM
To: DiTeodoro, Jack; Patnode, Rosemary; Levins, Peter J.; Sigona, Anthony
Subject: RE: USEPA Complaint & Compliance Order / Docket No. RCRA-02-2012-7502 (Conf Call Info)
Importance: High

I scheduled the conf call subject to availability of Jack and Rosemary. Please advise if you are available (Anthony and Peter are available). Thanks.

Dial 800-767-1750 and follow the voice prompts
Conf call Code: 01010
Starting 1/18/2012 at 9:00 AM for 80 minutes

From: DiTeodoro, Jack
Sent: Friday, January 13, 2012 1:17 PM
To: Fanek, Marwan
Cc: Cliffe, John; DiGasper, Linda
Subject: RE: USEPA Complaint & Compliance Order / Docket No. RCRA-02-2012-7502

OK, Marwan. I suggest we have a conference call with your counterparts from Northport & NJ. Please set one up for next week. Enjoy the weekend.

Jack P. DiTeodoro

Jack P. DiTeodoro
Attorney
Department of Veterans Affairs
Office of Regional Counsel (02)
800 Poly Place Building 14
Brooklyn, New York 11209
Tel.: (718) 630-2924
FAX: (718) 630-2917

From: Fanek, Marwan
Sent: Thursday, January 12, 2012 11:12 AM
To: DiTeodoro, Jack
Cc: Cliffe, John; DiGasper, Linda
Subject: USEPA Complaint & Compliance Order / Docket No. RCRA-02-2012-7502
Importance: High

On January 10, 2012, the Hudson Valley (HV) received the attached complaint from USEPA-Region II. The subject proceeding assesses $66,513.00 civil penalty for underground storage tanks alleged violations at three sites within VISN 3 as follows:

- Northport: Counts 1 thru 5 ($50,163.00)
- Hudson Valley: Count 6 ($13,170.00)
- Lyons: Count 7 ($3,180.00)

Northport was inspected on 1/13/2009, Hudson Valley on 2/12/2009, and Lyons on 5/4 thru 7/2009.

The letter states that the VA has 30 days from the receipt date to answer the complaint. While the HV copy has a "received date" of 1/10/2012, I don't know the date of receipt for the other medical centers.

The HV is seeking the Office of Regional Counsel (02) assistance respond to the subject matter. I will e-mail you a summary of the one allegation pertaining to the HV under a separate e-mail.

Thank you.

Please consider the environment before printing this email.

Marwan Fanek, MChE, CHSP
Green Environmental Management System (GEMS) Coordinator
Hudson Valley Health Care System
Montrose Office ☎ (914) 737-4400 ext. 2321
Castle Point Office ☎ (845) 831-2000 ext. 5726
Cell ☎ (914) 755-1191
Fax (914) 788-4309
E-mail marwan.fanek@va.gov

Sustainability is the art of balancing and keeping in existence the economy, wellbeing, and the environment without diminishing our resources. As life supporting resources decline, we have to continually work to make things better.

GEMS COORDINATOR PRELIMINARY REVIEW & ANSWER TO USEPA COMPLAINT, COMPLIANCE ORDER & OPPORTUNITY FOR HEARING

DATE OF NOTICE: December 29, 2011
DTAE OF RECEIPT: January 9, 2012
Due Date For Answer: Thirty Days of Receipt (February 8, 2012)

Count 1
Failure to Immediately Investigate and Report a Suspected Release at the Northport Facility UST System at Building T-127

1. Pursuant to 40 C.F.R. § 280.52, unless corrective action is initiated in accordance with Subpart F, owners and operators of UST systems must immediately investigate and confirm all suspected releases using either a system test or site check.

2. Pursuant to 40 C.F.R. § 280.50 owners and operators of UST systems must report to the implementing agency within 24 hours monitoring results from a release detection method required under §§ 280.41 and 280.42 that indicate a release may have occurred unless the monitoring device is found to be defective and it is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result.

3. During the January 2009 Inspection, the EPA Representative observed that UST System -at Building T-127 was in alarm status, with the automatic tank gauge warning "Liquid."

4. At the time of the January 2009 Inspection, the EPA Representative inquired about the alarm but Respondent's representative at the facility did not know the cause of the alarm.

5. At the time of the January 2009 Inspection, the Respondent had taken no steps to address the alarm status indicating a suspected release.

6. On March 19, 2009 EPA sent Respondent a Notice of Violation ("NOV") and Information Request Letter ("IRL"), which cited as a violation the failure to immediately investigate a suspected release and report to the implementing agency the suspected release at the UST system at Building T-,127. EPA also requested that Respondent provide any information refuting EPA's allegation that a violation existed and a description of the steps taken to correct the violation.

7. In its April 23 and May 22, 2009 Responses, Respondent reported that an opening in the side of the tank-top sump for UST System at Building T-127 was discovered and repaired on April 3, 2009.

8. Respondent failed to immediately investigate a suspected release and to report to the implementing agency the suspected release at the UST system at Building T-127, and this failure constitutes violations of 40 C.F.R. § 280.50 and §-280.52.

GEMS RESPONSES

A. The 4,000 gallon gasoline UST identified Suffolk County Department of Health (SCDHS) Registered Tank No. 49 was equipped with an approved leak detection system in conformance with USEPA Sections 280.41 and 280.42. which is manufactured by Veeder Root® and was found to be functioning working order as provided in a written response to USEPA on May 22, 2009.
B. The "Liquid Warning" light signal on the Veeder Root® TLS-350 is not an interstitial sensor for detection of leaks in the primary of secondary wall of the underground storage tank (UST). Based on the 2011 USEPA complaint and response to 2009 USEPA, it has been already established that the warning light was associated with water condition reported at bottom of the double wall pimping sump.

C. The warning light reported by the USEPA inspector identifies only the liquid level in the piping sump and was not determined by the USEPA any other authorized official to be an alarm status, or condition associated with an USEPA approved automatic tank gauging system. The USEPA approved device manufactured by Veeder Root® magnetostrictive probe is designed to measure the volume and inventory and does not provide a "Liquid" warning rather a high or low product level condition, and in-tank monitoring system used to detect leaks.

D. Based on this information, the USEPA has provided an inaccurate cause for action by identifying and confusing the following leak detection equipment: i) double wall interstitial sensor; ii) automatic tank gage and iii) liquid double wall piping sump sensor. It appears that the sump sensor properly identified water in the sump inside a fiberglass piping sump. This does not constitute a tank release of leak as is not plausible to conclude that the UST monitoring or in-tank tank system was defective.

E. There is no basis to conclude that based on water detecting in a sump is an indication that any monitoring results from a release detection method required under §280.41 and §280.42 have indicated a release may have occurred. Moreover, the monitoring devices used to detect a release from the piping or tank were found to detect any water entering the tank or defective condition with the tank, and there was no need for immediately repair, recalibration or replacement, and no additional monitoring was needed to confirm the initial result. By visual inspection alone the USEPA and authorized representatives were able to determine that the cause for liquid light alarm was due to water in the piping sump alone and no evidence of petroleum was detected or reported.

Count 2
Failure to Maintain Records of Tank Release Detection
for the Northport Facility
Tank of UST System at Building T-127

1. Pursuant to 40 C.F.R. § 280.41(a) owners and operators must ensure that tanks must be monitored for releases at least every 30 days using one of the methods listed in 40 C.F.R. § 280.43(d) through (h).

2. Pursuant to 40 C.F.R. § 280.45(b) and in accordance with 40 C.F.R. § 280.34, owners and operators must maintain the results of any release detection monitoring for at least one year.

3. During the January 2009 Inspection, the EPA Representative made an oral request for release detection records for the tank of the UST System at Building T-127 for the previous twelve months.

4. During the January 2009 Inspection, in response to the oral request for release detection records as described in the paragraph above, Respondent's representative informed the EPA Representative that the facility did not have release detection records for the tank of the UST System at Building T-127.

5. On March 19, 2009 EPA sent Respondent a NOV/IRL, which cited as a violation the failure to maintain release detection records for the tank of the UST System at Building T-127. EPA also requested that Respondent provide any information refuting EPA's allegation that a violation existed, a description of the steps taken to correct the violation and documentation of the facility's compliance with all requirements of 40 C.F.R. §280.40 to § 280.45, including "documentation demonstrating that the leak detection was implemented during the last 12 months."

6. In its April 23 and May 22, 2009 Responses, Respondent only provided valid release detection results for the tank of the UST System at Building T-127 for November and December 2008.

7. The Respondent failed to maintain complete records of release detection for the tank of UST System at Building T-127 for the twelve-month period prior to the March 19, 2009 NOV/IRL, and this failure constitutes a violation of 40 C.F.R. § 280.45(b).

GEMS RESPONSES

A. The UST and piping are equipped with interstitial monitoring devices which are designed for continuous leak and spill detection.
B. The record keeping for sensor operation since the system was design. installed and maintained by manufacturer requirements as provided to USEPA in a May 22. 209 written response.
C. The additional monitoring records provided to USEPA indicate that the system was being maintained, but are not a primary method to document USEPA release detection records.
D. USEPA does not require records for monitoring of electrical sensors for interstitial monitoring devices which are designed for continuous leak and spill detection.
E. The USEPA has shown that a liquid sensor detected water in the piping sump and not product which was not reported as a piping leak. The system provided continuous detection of water in the sump which is routinely inspected. Any water present in the piping sump is properly removed allowing the sump sensor light to close and remain activated for the detection of liquid, whether it is water or petroleum.

Count 3
Failure to Perform or Maintain Records of an Annual Line Tightness Test or Release Detection Monitoring for the Northport Facility Piping of UST System at Building T-127

1. Pursuant to 40 C.F.R. § 280.41b(1)(ii) owners and operators of underground piping that conveys regulated substances under pressure must have an annual line tightness test conducted in accordance with §280.44(b), or have monthly monitoring conducted in accordance with §280.44(c).

2. Pursuant to 40 C.F.R. § 280.45(b) and in accordance with 40 C.F.R. § 280.34, owners and operators must maintain the results of any release detection monitoring for at least one year.

3. During the January 2009 Inspection, the EPA Representative made an oral request for records of release detection monitoring for the piping of the UST System at Building T127 for the previous twelve months.

4. During the January 2009 Inspection, in response to the oral request for the piping release detection records as described in paragraph 40, above, Respondent's representative informed the EPA Representative that the facility did not have release detection monitoring for the piping of the UST system. at Building T-127 for the previous twelve months.

   On March 19, 2009 EPA sent Respondent an NOV/IRL which cited as a violation the failure to maintain release detection records. EPA also requested that Respondent . provide any information refitting EPA's allegation that a violation existed. a description of the steps taken to correct the violation and documentation of the facility's compliance with all requirements of 40 C.F.R. §280.40 to § 280.45, including "documentation demonstrating that the leak detection was implemented during the last 12 months."

5. In its April 23 and May 22, 2009 Responses, Respondent provided no documentation of either an annual line tightness test, or monthly monitoring-detection for the piping of the UST System at Building T-127.

6. The Respondent failed to either perform an annual line tightness test or monthly release detection monitoring for the piping of the UST System at Building T-127 for the twelve- . month period prior to the NOV/IRL or to maintain records of said testing/monitoring. and this failure constitutes a violation of 40 C.F.R. §§ 280.41(b)(1)(ii) and 280.45(b).

GEMS RESPONSES

A. The UST and piping are equipped with interstitial monitoring devices which are designed for continuous leak and spill detection.
B. Tightness testing is not needed to satisfy USEPA requirements for leak detection since this requirement has been fulfilled by a more reliable method acceptable by USEPA and the National Working Group for Leak Detection.

Count 4
Failure to Equip the Pressurized Piping System for the Northport Facility with an Automatic Line Leak Detector and to Test it Annually UST System at Building T-127

1. Pursuant to 40 C.F.R. §§ 280.41(b)(1)(i) and 280.44(a), a pressurized piping system must be equipped with an automatic line leak detector, which must be tested annually.

2. During the January 2009 Inspection, the EPA Representative asked Respondent representative what type of pipe monitoring, if any, the facility was using for the UST System at Building T-127.

3. During the January 2009 Inspection, Respondent representative was unable to provide any information on what type of pipe monitoring, if any, the facility was using for the UST System at Building T-127.

4. On March 19, 2009 EPA sent Respondent an NOV/IRL which requested documentation of the facility's compliance with all requirements of 40 C.F.R. §280.40 to § 280.45, which include the release monitoring requirements for the piping.

5. In its NOV/IRL Responses dated April 23 and May 22, 2009, Respondent provided no information regarding the facility's compliance with the release monitoring requirements for the piping of the UST System at Building T-127.

6. Upon information and belief, as of the time of the January 2009 Inspection, the piping, system for the UST System at Building T-127 was pressurized but Respondent had not installed an automatic line leak detector as required by 40 C.F.R. § 280.41(b)(1)(i) and was not conducting annual testing of the operation of the leak detector as required by 40 C.F.R. § 280.44(a).

7. Upon information and belief, as of the day of its NOV/IRL Response dated May 22, 2009, Respondent had not installed an automatic line leak detector for the piping of the UST System at Building T-127 as required by 40 C.F.R. § 280.41(b)(1)(i) and was not conducting annual testing of the operation of the leak detector as required by 40 C.F.R. § 280.44(a).

8. The failure of Respondent to have an automatic line leak detector for the piping of the UST System at Building T-127 at the Northport Facility, or to conduct an annual tests of its operation constitutes a violation of 40 C.F.R. § 280.41(b)(1)(i) and § 280.44(a).

GEMS RESPONSES

A. The UST and piping are equipped with interstitial monitoring devices which are designed for continuous leak and spill detection.
B. Tightness testing is not needed to satisfy USEPA requirements for leak detection since this requirement has been fulfilled by a more reliable method acceptable by USEPA and the National Working Group for Leak Detection.

Count 5
Failure to Have Required Overfill Prevention at the Northport Facility UST Systems at Buildings 210, 212 and 215

1. Pursuant to 40 CFR §280.20(c)(1)(ii), to prevent overfilling associated with transfer of the regulated substance to the UST system, owners and operators must use overfill prevention equipment that will: (A) Automatically shut off flow into the tank when the tank is no more than 95 percent full; or (B) Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm; or (C) Restrict flow 30 minutes prior to overfilling, alert the operator with a high level alarm one minute before overfilling, or automatically shut off flow into the tank.

2. During the January 2009 Inspection, the overfill alarm for the 1,000-gallon UST storing diesel fuel for an emergency generator near the sewage treatment plant at Building 210 was not functioning when the EPA Representative tested it.

3. According to facility records reviewed by the EPA Representative at the facility at the time of the January 2009 Inspection, the overfill alarm for the 1,000-gallon UST storing diesel fuel for an emergency generator near the sewage treatment plant at Building 210 had not been functioning since at least April 13, 2005.

4. During the January 2009 Inspection, the overfill alarm for the 1,000-gallon diesel fuel UST at Building 212 did not sound when the EPA Representative tested it.

5. During the January 2009 Inspection, the overfill alarm for the 1,000-gallon diesel fuel UST at Building 215 sounded when the EPA Representative tested it, but it would not shut off.

6. On March 19, 2009 EPA sent Respondent an NOV/IRL which cited as violations the problems with the overfill alarms for the UST systems at Buildings 210, 212 and 215. EPA also requested that Respondent provide any information refuting EPA's allegation that those violations existed and describing the steps taken to correct the violations.

7. In its March 19, 2009 NOV/IRL EPA also asked Respondent to "[p]rovide information on the overfill and spill protection procedures and/or equipment used to ensure that overfilling and spilling do not occur."

8. In its April 23 and May 22, 2009 NOV/IRL Responses, Respondent, in response to the question described in the paragraph above, stated that the leak detection system for the Building 210 UST would be monitored weekly until the task was contracted out and that the other two overfill prevention systems functioned properly as of April 2009.

9. In its April 23 and May 22, 2009 NOV/IRL Responses, Respondent, in response to the question described in paragraph 61 above, stated that it had [o]verfill alarms in place."

10. During the January 2009 Inspection Respondent did not have overfill prevention for the UST systems at Buildings 210, 212 and 215 that satisfied the requirements in 40 CFR §280.20(c)(1)(ii).

11. Respondent's failure to have required overfill prevention for the UST systems at Buildings 210, 212 and 215 constitutes violations of 40 CFR §280.20(c)(1)(ii).

GEMS RESPONSES

A. The overfill prevention systems were addressed as specified in a written response to USEPA on Many 22, 2009.
B. All UST and piping are equipped with required overfill prevention systems and were not in violation with the exception of an overfill alarm condition at Building 210.

PROPOSED CIVIL PENALTY

Section 9007 of the Act and Section 9006(d)(2)(A) of the Act, 42 U.S.C. § 6991e (d)(2)(A), authorizes the assessment of a civil penalty against a federal department or agency of up to $10,000 for each tank for each day of violation of any requirement or standard promulgated by the Administrator. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection and Improvement Act of 1996, Pub. L. No. 104-34, 110 Stat. 1321 (1996), required EPA to adjust its penalties for inflation on a periodic basis. EPA issued a Civil Monetary Penalty Inflation Adjustment Rule on December 31, 1996, 61 Fed. Reg. 69360 on February 13, 2004, 69 Fed. Reg. 7121 and on December 11, 2008, 73 Fed. Reg. 75340, codified at 40 C.F.R. Part 19.

Under Table 1 of the Civil Monetary Penalty Inflation Adjustment Rule, the maximum civil penalty under 42 U.S.C. § 6991e(d)(2) for each tank for each day of violation occurring after March 15, 2004 and before January 13, 2009 is $11,000. The maximum penalty for violations occurring after January 12, 2009 is $16,000.

The penalties are proposed pursuant to the "U.S. EPA Penalty Guidance for Violations of UST Requirements" dated November 1990 ("UST Guidance"). The penalty amounts in this guidance were amended by a September 21, 2004 document entitled, "Modifications to EPA Penalty Policies to implement the Civil Monetary Penalty Inflation Rule (pursuant to the Debt Collection Improvement Act of 1996, Effective on October 1, 2004)" and a December 29, 2008 document entitled "Amendments to EPA's Civil Penalty Policies to implement the 2008 Civil Monetary Penalty Inflation Adjustment Rule (Effective January 12, 2009)." A more specific guidance entitled "Revision to Adjusted Penalty Policy Matrices Issued on November 16, 2009" was issued on April 6, 2012. (These documents are available upon request.) This UST guidance provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors to particular cases.

Based upon the facts alleged in this Complaint and taking into account factors such as the seriousness of the violations, and any good faith efforts by the Respondent to comply with the applicable requirements, the Complainant proposes, subject to receipt and evaluation of further relevant information, to assess the following civil penalties:

SUMMARY OF USEPA PROPOSED PENALTIES FOR NORTHPORT VAMC

Count 1: Failure to Immediately Investigate and Report Suspected Release at the UST System at Building T-127 at the Northport Facility $3,498.00

Count 2: Failure to Maintain Records of Release Detection for the Tank of UST System at Building T-127 at the Northport Facility..... $11,070.00

Count 3: Failure to Perform or Maintain Records of Annual Line Tightness Test/Release Detection Monitoring of Piping of UST System at Building T-127 ..... $11,070.00

Count 4: Failure to Equip the Pressurized Piping System of UST System at Building T-127 at the Northport Facility with an Automatic Line Leak Detector and to Annually Test $17, 370.00

Count 5: Failure to Have Required Overfill Prevention on the UST Systems at Buildings 210, 212 and 215 at the Northport Facility..... $7,155.00

USEPA Proposed Penalty for Northport VAMC..... $43,008.00
RECOMMENDED PAYABLE PENALTY..... $3,500.00

SUMMARY OF USEPA COMPLAINT, COMPLIANCE ORDER & OPPORTUNITY FOR HEARING

DATE OF NOTICE: December 29, 2011
DTAE OF RECEIPT: January 9, 2012
Due Date For Answer: Thirty Days of Receipt (February 8, 2012)

Respondent, for all relevant times in this complaint, has owned and operated, inter alia, four new USTs at the Northport, NY Medical Center ("Northport Facility"), located at 79 Middleville Road,' Northport, NY 11768. The three UST systems at Buildings 210, 212 and 215 at the Northport Facility included 1,000-gallon tanks used to store diesel fuel for emergency generators only and were installed in 1990. The UST system at Building T127 is a 1,000-gallon tank used to store gasoline for vehicles and was installed in 1990. On or about January 13, 2009, an EPA Representative inspected the UST systems at the Northport Facility ("January 2009 Inspection"). The purpose of the inspection was in part to determine the Respondent's compliance with the Act.

In 2004, EPA and the Respondent entered into a facility Audit Agreement ("Audit Agreement") pursuant to which Respondent conducted an audit of its compliance with federal environmental requirements, including the UST rules codified at 40 C.F.R. Part 280, at numerous of its facilities in the State of New York and New Jersey (including the facilities which are the subject of this complaint). The Audit Agreement provided that Respondent would disclose to EPA and correct identified violations at its facilities. In exchange for Respondent taking these actions, EPA agreed not to seek gravity based penalties for these violations. Under the Audit Agreement, Respondent also committed to develop and implement an Environmental Management Agreement and to take the steps necessary to prevent violations in the future.

You have the right to a formal hearing to contest any of the allegations in the Complaint and/or to contest the penalty proposed in the Complaint.. If you wish to contest the allegations and/or the penalty proposed in the Complaint, you must file an Answer within *thirty (30)* days of your receipt of the enclosed Complaint with the Regional Hearing Clerk of the Environmental Protection Agency ("EPA"), Region 2

Whether or not you request a formal hearing, you may request an informal conference with EPA to discuss any issue relating to the alleged violations and the amount of the proposed penalty.
EPA encourages the use of Supplemental Environmental Projects, where appropriate, as part of any settlement. I am enclosing a brochure on "EPA's Supplemental Environmental Projects Policy." Please note that these are only available as part of a negotiated settlement and are not available if this case has to be resolved by a formal adjudication.

Count 1
Failure to Immediately Investigate and Report
a Suspected Release at the Northport Facility
UST System at Building T-127

1. Pursuant to 40 C.F.R. § 280.52, unless corrective action is initiated in accordance with Subpart F, owners and operators of UST systems must immediately investigate and confirm all suspected releases using either a system test or site check.

2. Pursuant to 40 C.F.R. § 280.50 owners and operators of UST systems must report to the implementing agency within 24 hours monitoring results from a release detection method required under §§ 280.41 and 280.42 that indicate a release may have occurred unless the monitoring device is found to be defective and it is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result.

3. During the January 2009 Inspection, the EPA Representative observed that UST System -at Building T-127 was in alarm status, with the automatic tank gauge warning "Liquid."

4. At the time of the January 2009 Inspection, the EPA Representative inquired about the alarm but Respondent's representative at the facility did not know the cause of the alarm.

5. At the time of the January 2009 Inspection, the Respondent had taken no steps to address the alarm status indicating a suspected release.

6. On March 19, 2009 EPA sent Respondent a Notice of Violation ("NOV") and Information Request Letter ("IRL"), which cited as a violation the failure to immediately investigate a suspected release and report to the implementing agency the suspected release at the UST system at Building T-,127. EPA also requested that Respondent provide any information refuting EPA's allegation that a violation existed and a description of the steps taken to correct the violation.

7. In its April 23 and May 22, 2009 Responses, Respondent reported that an opening in the side of the tank-top sump for UST System at Building T-127 was discovered and repaired on April 3, 2009.

8. Respondent failed to immediately investigate a suspected release and to report to the implementing agency the suspected release at the UST system at Building T-127, and this failure constitutes violations of 40 C.F.R. § 280.50 and §-280.52.

Count 2
Failure to Maintain Records of Tank Release Detection
for the Northport Facility
Tank of UST System at Building T-127

1. Pursuant to 40 C.F.R. § 280.41(a) owners and operators must ensure that tanks must be monitored for releases at least every 30 days using one of the methods listed in 40 C.F.R. § 280.43(d) through (h).

2. Pursuant to 40 C.F.R. § 280.45(b) and in accordance with 40 C.F.R. § 280.34, owners and operators must maintain the results of any release detection monitoring for at least one year.

3. During the January 2009 Inspection, the EPA Representative made an oral request for release detection records for the tank of the UST System at Building T-127 for the previous twelve months.

4. During the January 2009 Inspection, in response to the oral request for release detection records as described in the paragraph above, Respondent's representative informed the EPA Representative that the facility did not have release detection records for the tank of the UST System at Building T-127.

5. On March 19, 2009 EPA sent Respondent a NOV/IRL, which cited as a violation the failure to maintain release detection records for the tank of the UST System at Building T-127. EPA also requested that Respondent provide any information refuting EPA's allegation that a violation existed, a description of the steps taken to correct the violation and documentation of the facility's compliance with all requirements of 40 C.F.R. §280.40 to § 280.45, including "documentation demonstrating that the leak detection was implemented during the last 12 months."

6. In its April 23 and May 22, 2009 Responses, Respondent only provided valid release detection results for the tank of the UST System at Building T-127 for November and December 2008.

7. The Respondent failed to maintain complete records of release detection for the tank of UST System at Building T-127 for the twelve-month period prior to the March 19, 2009 NOV/IRL, and this failure constitutes a violation of 40 C.F.R. § 280.45(b).

Count 3
Failure to Perform or Maintain Records of an Annual Line Tightness Test or Release Detection Monitoring for the Northport Facility Piping of UST System at Building T-127

1. Pursuant to 40 C.F.R. § 280.41b(1)(ii) owners and operators of underground piping that conveys regulated substances under pressure must have an annual line tightness test conducted in accordance with §280.44(b), or have monthly monitoring conducted in accordance with §280.44(c).

2. Pursuant to 40 C.F.R. § 280.45(b) and in accordance with 40 C.F.R. § 280.34, owners and operators must maintain the results of any release detection monitoring for at least one year.

3. During the January 2009 Inspection, the EPA Representative made an oral request for records of release detection monitoring for the piping of the UST System at Building T127 for the previous twelve months.

4. During the January 2009 Inspection, in response to the oral request for the piping release detection records as described in paragraph 40, above, Respondent's representative informed the EPA Representative that the facility did not have release detection monitoring for the piping of the UST system. at Building T-127 for the previous twelve months.

   On March 19, 2009 EPA sent Respondent an NOV/IRL which cited as a violation the failure to maintain release detection records. EPA also requested that Respondent . provide any information refitting EPA's allegation that a violation existed, a description of the steps taken to correct the violation and documentation of the facility's compliance with all requirements of 40 C.F.R. §280.40 to § 280.45, including "documentation demonstrating that the leak detection was implemented during the last 12 months."

5. In its April 23 and May 22, 2009 Responses, Respondent provided no documentation of either an annual line tightness test, or monthly monitoring-detection for the piping of the UST System at Building T-127.

6. The Respondent failed to either perform an annual line tightness test or monthly release detection monitoring for the piping of the UST System at Building T-127 for the twelve- . month period prior to the NOV/IRL or to maintain records of said testing/monitoring. and this failure constitutes a violation of 40 C.F.R. §§ 280.41(b)(1)(ii) and 280.45(b).

Count 4
Failure to Equip the Pressurized Piping System for the Northport Facility with an Automatic Line Leak Detector and to Test it Annually UST System at Building T-127

1. Pursuant to 40 C.F.R. §§ 280.41(b)(1)(i) and 280.44(a), a pressurized piping system must be equipped with an automatic line leak detector, which must be tested annually.

2. During the January 2009 Inspection, the EPA Representative asked Respondent representative what type of pipe monitoring, if any, the facility was using for the UST System at Building T-127.

3. During the January 2009 Inspection, Respondent representative was unable to provide any information on what type of pipe monitoring, if any, the facility was using for the UST System at Building T-127.

4. On March 19, 2009 EPA sent Respondent an NOV/IRL which requested documentation of the facility's compliance with all requirements of 40 C.F.R. §280.40 to § 280.45, which include the release monitoring requirements for the piping.

5. In its NOV/IRL Responses dated April 23 and May 22, 2009, Respondent provided no information regarding the facility's compliance with the release monitoring requirements for the piping of the UST System at Building T-127.

6. Upon information and belief, as of the time of the January 2009 Inspection, the piping, system for the UST System at Building T-127 was pressurized but Respondent had not installed an automatic line leak detector as required by 40 C.F.R. § 280.41(b)(1)(i) and was not conducting annual testing of the operation of the leak detector as required by 40 C.F.R. § 280.44(a).

7. Upon information and belief, as of the day of its NOV/IRL Response dated May 22, 2009, Respondent had not installed an automatic line leak detector for the piping of the UST System at Building T-127 as required by 40 C.F.R. § 280. 41(b)(1)(i) and was not conducting annual testing of the operation of the leak detector as required by 40 C.F.R. § 280.44(a).

8. The failure of Respondent to have an automatic line leak detector for the piping of the UST System at Building T-127 at the Northport Facility, or to conduct an annual tests of its operation constitutes a violation of 40 C.F.R. § 280. 41(b)(1)(i) and § 280.44(a).

Count 5
Failure to Have Required Overfill Prevention at the Northport Facility
UST Systems at Buildings 210, 212 and 215

1. Pursuant to 40 CFR §280.20(c)(1)(ii), to prevent overfilling associated with transfer of the regulated substance to the UST system, owners and operators must use overfill prevention equipment that will: (A) Automatically shut off flow into the tank when the tank is no more than 95 percent full; or (B) Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm; or (C) Restrict flow 30 minutes prior to overfilling, alert the operator with a high level alarm one minute before overfilling, or automatically shut off flow into the tank.

2. During the January 2009 Inspection, the overfill alarm for the 1,000-gallon UST storing diesel fuel for an emergency generator near the sewage treatment plant at Building 210 was not functioning when the EPA Representative tested it.

3. According to facility records reviewed by the EPA Representative at the facility at the time of the January 2009 Inspection, the overfill alarm for the 1,000-gallon UST storing diesel fuel for an emergency generator near the sewage treatment plant at Building 210 had not been functioning since at least April 13, 2005.

4. During the January 2009 Inspection, the overfill alarm for the 1,000-gallon diesel fuel UST at Building 212 did not sound when the EPA Representative tested it.

5. During the January 2009 Inspection, the overfill alarm for the 1,000-gallon diesel fuel UST at Building 215 sounded when the EPA Representative tested it, but it would not shut off.

6. On March 19, 2009 EPA sent Respondent an NOV/IRL which cited as violations the problems with the overfill alarms for the UST systems at Buildings 210, 212 and 215. EPA also requested that Respondent provide any information refuting EPA's allegation that those violations existed and describing the steps taken to correct the violations.

7. In its March 19, 2009 NOV/IRL EPA also asked Respondent to "[p]rovide information on the overfill and spill protection procedures and/or equipment used to ensure that overfilling and spilling do not occur."

8. In its April 23 and May 22, 2009 NOV/IRL Responses, Respondent, in response to the question described in the paragraph above, stated that the leak detection system for the Building 210 UST would be monitored weekly until the task was contracted out and that the other two overfill prevention systems functioned properly as of April 2009.

9. In its April 23 and May 22, 2009 NOV/IRL Responses, Respondent, in response to the question described in paragraph 61 above, stated that it had [o]verfill alarms in place."

10. During the January 2009 Inspection Respondent did not have overfill prevention for the UST systems at Buildings 210, 212 and 215 that satisfied the requirements in 40 CFR §280.20(c)(1)(ii).

11. Respondent's failure to have required overfill prevention for the UST systems at Buildings 210, 212 and 215 constitutes violations of 40 CFR §280.20(c)(1)(ii).

PROPOSED CIVIL PENALTY

Section 9007 of the Act and Section 9006(d)(2)(A) of the Act, 42 U.S.C. § 6991e (d)(2)(A), authorizes the assessment of a civil penalty against a federal department or agency of up to $10,000 for each tank for each day of violation of any requirement or standard promulgated by the Administrator. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection and Improvement Act of 1996, Pub. L. No. 104-34, 110 Stat. 1321 (1996), required EPA to adjust its penalties for inflation on a periodic basis. EPA issued a Civil Monetary Penalty Inflation Adjustment Rule on December 31, 1996, 61 Fed. Reg. 69360 on February 13, 2004, 69 Fed. Reg. 7121 and on December 11, 2008, 73 Fed. Reg. 75340, codified at 40 C.F.R. Part 19.

Under Table 1 of the Civil Monetary Penalty Inflation Adjustment Rule, the maximum civil penalty under 42 U.S.C. § 6991e(d)(2) for each tank for each day of violation occurring after March 15, 2004 and before January 13, 2009 is $11,000. The maximum penalty for violations occurring after January 12, 2009 is $16,000.

The penalties are proposed pursuant to the "U.S. EPA Penalty Guidance for Violations of UST Requirements" dated November 1990 ("UST Guidance"). The penalty amounts in this guidance were amended by a September 21, 2004 document entitled, "Modifications to EPA Penalty Policies to implement the Civil Monetary Penalty Inflation Rule (pursuant to the Debt Collection Improvement Act of 1996. Effective on October 1, 2004)" and a December 29, 2008 document entitled "Amendments to EPA's Civil Penalty Policies to implement the 2008 Civil Monetary Penalty Inflation Adjustment Rule (Effective January 12, 2009)." A more specific guidance entitled "Revision to Adjusted Penalty Policy Matrices Issued on November 16, 2009" was issued on April 6, 2012. (These documents are available upon request.) This UST guidance provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors to particular cases.

Based upon the facts alleged in this Complaint and taking into account factors such as the seriousness of the violations, and any good faith efforts by the Respondent to comply with the applicable requirements, the Complainant proposes, subject to receipt and evaluation of further relevant information, to assess the following civil penalties:

SUMMARY OF USEPA PROPOSED PENALTIES FOR NORTHPORT VAMC

Count 1: Failure to Immediately Investigate and Report Suspected Release at the UST System at Building T-127 at the Northport Facility $3,498.00

Count 2: Failure to Maintain Records of Release Detection for the Tank of UST System at Building T-127 at the Northport Facility $11,070.00

Count 3: Failure to Perform or Maintain Records of an Annual Line Tightness Test or Release Detection Monitoring of the Piping of UST System at Building T-127 at the Northport Facility $11,070.00

Count 4: Failure to Equip the Pressurized Piping System of UST System at Building T-127 at the Northport Facility with an Automatic Line Leak Detector and to Annually Test $17,370.00

Count 5: Failure to Have Required Overfill Prevention on the UST Systems at Buildings 210, 212 and 215 at the Northport Facility $7,155.00

USEPA Proposed Penalty for Northport VAMC $43,008.00

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

MAR 19 2009

CERTIFIED MAIL-RETURN RECEIPT REQUESTED
Article number:

Philip Moschitta, Director
Veterans Administration Medical Center Northport
79 Middleville Road
Northport, NY 11768

Re: NOTICE OF VIOLATION
Request for Information Pursuant to Section 9005 of the Solid Waste Disposal Act, as amended **EF-UST-IR-09-010**
Veterans Administration Medical Center, Northport, NY

Dear Mr. Moschitta:

The U.S. Environmental Protection Agency (EPA) is charged with the protection of human health and the environment under the Solid Waste Disposal Act, as amended (often referred to as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 et seq).

On or about January 13, 2009, a representative of the EPA conducted an inspection of the underground storage tanks (USTs) located at the Veterans Administration Medical Center Northport, located at 79 Middleville Road, Northport, NY 11768, pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a), and 40 C.F.R. § 280.34. This Notice of Violation (NOV) addresses the UST violations identified during the January 13, 2009 inspection at the facility, and requests additional information regarding management of the UST systems at the facility. The NOV portion of this letter (see Enclosure I) is issued pursuant to Section 9006 of the Solid Waste Disposal Act, as amended by the Hazardous and Solid Waste Amendments Act of 1984 ("HSWA") and RCRA, 40 U.S.C. § 6991(e). Issuance of this NOV and compliance with its terms do not preclude EPA from taking any other formal enforcement action against the Veterans Administration Medical Center Northport under § 9006 of RCRA, 42 U.S.C. § 6991, or any other applicable regulation or statute.

Pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a), and 40 C.F.R. § 280.34, you are hereby also required to submit the information requested in Enclosure III using the instructions and definitions in Enclosure II. This additional information is required to evaluate the full regulatory and compliance status of the USTs located at the facility. Please provide the information requested no later than **thirty (30) calendar days** from the date of receipt of this letter. Requests for additional time must be justified, and must be requested in writing within ten (10) calendar days of your receipt of this letter. Violation of Federal UST regulations may result in penalties of up to $11,000 per UST system per day of violation.

The response or request for additional time must be submitted to the following addressee:

Charles Zafonte
Multimedia Enforcement Coordinator
U.S. Environmental Protection Agency, Region 2
290 Broadway, 21st Floor
New York, NY 10007-1866

An officer or agent who is authorized to respond on behalf of the Veterans Administration Medical Center Northport must complete and sign the attached Certification page (Enclosure IV), and return it with your response to the NOV/IRL.

Subject to 40 C.F.R. Part 2, you may assert a business confidentiality claim covering all or part of the information herein requested. The claim may be asserted by placing on (or attaching to) the information at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret", "proprietary", or "company confidential". The claim should set forth the information requested in 40 C.F.R. Section 2.204(e)(4). Information covered by such a claim will be disclosed by EPA only to the extent permitted by, and by means of procedures set forth in, 40 C.F.R. Part 2. EPA will review the information to determine the extent of confidentiality of the information, and may, at its discretion, evaluate the confidentiality claim pursuant to procedures set forth at 40 C.F.R. Part 2. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

The NOV/IRL is not subject to the requirements of the Paperwork Reduction Act (PRA), as amended, 44 U.S.C. §§3501 et seq.

Failure to respond to this letter truthfully and accurately within the time provided may subject you to sanctions authorized by federal law.

If you have any questions concerning the information requested, please contact Charles Zafonte at (212) 637-3515. I urge your prompt attention to this matter.

Sincerely yours,

George C. Meyer, P.E., Chief
RCRA Compliance Branch
Division of Enforcement and Compliance Assistance

Enclosures

cc: Lester Sekowski, Asst. Chief, Engineering Service
Veterans Administration Medical Center, Northport, NY (same address)

ENCLOSURE I
NOTICE OF VIOLATION

The following violations were identified by the EPA representative during the January 13, 2009 inspection of the Veterans Administration Medical Center Northport, located at 79 Middleville Road, Northport, NY 11768.

Pursuant to 40 CFR § 280.22, all UST owners or operators must submit complete notification forms to the appropriate state or local agency.

- When requested, facility representatives could provide no evidence of notification to the state or county of USTs at the facility.

Pursuant to 40 CFR §§ 280.41a and b, 280.43e and 280.45b, owners and operators of USTs must provide periodic release detection of tanks and piping, and maintain the results for at least 1 year.

- Twelve months of release detection records could not be provided for the 1,000-gallon UST at Building T-127 that supplies gasoline for vehicles.

- The facility withdraws ground water and blends it with county water to serve the facility's needs. Two water withdrawal wells have electric pumps that are supplemented with auxiliary engines.
  - The 550-gallon UST storing diesel fuel for the Wellhouse #2 auxiliary engine in Building 30 was observed to have no tank or piping release detection. Facility representatives stated that none exists.

  - The UST storing gasoline for the Wellhouse #3 auxiliary engine has release detection, but facility representatives could offer no release detection records for the last twelve months.

Pursuant to 40 CFR §§ 280.50c and 280.52, owners and operators of UST systems must report monitoring results that indicate a release, and unless corrective action is initiated in accordance with Subpart F, must immediately investigate and confirm all suspected releases, using either a system test or site check.

- At the time of the inspection, the Veeder-Root TLS-350 for the two tanks at T-127 (an UST and AST used to fuel vehicles) displayed a warning light for "Liquid." Facility representatives could provide no explanation for the cause of the warning light, or steps taken to address the problem.

- Oil was observed in the spill bucket for the 1,000-gallon diesel fuel UST for Building 215.

- A 1,000-gallon UST storing diesel fuel for an emergency generator day tank near the sewage treatment plant/Building 210 was observed to have oily fluid in the spill bucket.

Pursuant to 40 C.F.R. §280.20c, to prevent overfill associated with product transfer to the UST system, owners and operators must use overfill prevention equipment.

- The 1,000-gallon UST for Building 212 was equipped with an overfill alarm, but it did not sound when tested.

- The 1,000-gallon diesel fuel UST for Building 215 had an overfill alarm that sounded when tested, but would not shut off.

- The overfill alarm for the 1,000-gallon UST storing diesel fuel for an emergency generator day tank near the sewage treatment plant/Building 210 has not been functional since at least April 13, 2005, according to facility records. Facility representatives stated that this was "turned in a year ago."

ENCLOSURE II

INSTRUCTIONS AND DEFINITIONS

In responding to this NOV/IRL, apply the following instructions and definitions:

1. The signatory should be an officer or agent who is authorized to respond on behalf of the Veterans Administration Medical Center Northport, located at 79 Middleville Road, Northport, NY 11768. The signatory must sign the attached Certification of Answers (Enclosure IV) and return it with the response to this NOV/IRL.

2. A complete response must be made to each individual question in this NOV/IRL. Identify each answer with the number of the question to which it is addressed.

3. In preparing your response to each question, consult with all present and former employees and agents of the Veterans Administration Medical Center Northport, who you have reason to believe may be familiar with the matter to which the question pertains.

4. In answering each question, identify all contributing sources of information.

5. It is your responsibility to try to obtain any information pertinent to any question. If you are unable to answer a question in a detailed and complete manner or if you are unable to provide any of the information or documents requested, indicate the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any question, state that person's name and last known address and phone number and the reasons for your belief.

6. If you cannot provide a precise answer to any question, please approximate and state the reason for your inability to be specific.

7. For each document produced in response to this NOV/IRL, indicate on the document or in some other reasonable manner the number of the question to which it applies.

8. If anything is deleted from a document produced in response to the NOV/IRL, state the reason for and the subject matter of the deletion.

9. If a document is requested but is not available, state the reason for its unavailability. In addition, identify any such document by author, date, subject matter, number of pages, and all recipients and their addresses.

10. Unless the question clearly provides otherwise, each question must be answered for the UST systems located at the Veterans Administration Medical Center Northport, located at 79 Middleville Road, Northport, NY 11768.

11. The facility, for the purposes of the NOV/IRL, is the Veterans Administration Medical Center Northport, located at 79 Middleville Road, Northport, NY 11768.

12. Underground storage tank or UST shall be defined, for the purposes of this NOV/IRL, as any one or combination of tanks (including 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. See 40 C.F.R. § 280.12.

13. Underground storage tank system or UST system shall be defined, for the purposes of this NOV/IRL, as an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any. See 40 C.F.R. §280.12.

14. A facility, for the purposes of this NOV/IRL, is defined as the property on which USTs are or were previously located.

15. Owner shall be defined, for the purposes of this NOV/IRL, as any person who owns an UST system used for storage, use, or dispensing of regulated substances. See 40 C.F.R. § 280.12.

16. Operator shall be defined, for the purposes of this NOV/IRL, as any person in control of, or having responsibility for, the daily operation of an UST system. See 40 C.F.R. § 280.12.

17. NYSDEC shall be defined as the New York State Department of Environmental Conservation.

18. Unless indicated otherwise, all questions should be answered for the time period ending January 12, 2009 (i.e., prior to commencement of the EPA inspection).

ENCLOSURE III

INFORMATION REQUEST

1. For the violations cited in the NOV:

   (a) If you believe these violations do not exist, provide a detailed explanation and copies of any supporting documentation demonstrating compliance with the federal UST regulations cited in the NOV. If such documentation is not available, please provide a detailed explanation as to why they are not available including any regulatory exemptions that are claimed;

   (b) Provide a description of the actions taken to correct the violations cited in the NOV;

   (c) Provide documentation verifying that the violations have been corrected, including photographs, where applicable; and

   (d) Provide an account of changes in facility management practices sufficient to prevent a recurrence of said violations.

General UST Information

2. Provide a copy of the most recent UST registration questionnaire (required to be provided to the NYSDEC) and a copy of the current registration certification.

3. Provide the day, month, and year that each UST was installed.

4. Provide the capacity of each UST, indicate the regulated substances currently stored, or that were stored, in each UST, and how the stored substance is/was used, e.g., for fueling vehicles. Include the results of any test conducted to determine if the contents of any UST are subject to regulation under Subtitle C of RCRA.

5. Provide the construction material of tank and piping for each UST system, and the name of the manufacturer of each part of the UST system.

Overfill, Spill, and Corrosion Protection

6. Provide information on the overfill and spill protection procedures and/or equipment used to ensure that overfilling and spilling do not occur.

7. If the USTs are metal, in response to question #5, submit documentation on corrosion protection and the last two system tests.

Leaks and Leak Detection

8. Please provide for each UST the method(s) of leak detection used to comply with the leak detection regulations found in 40 C.F.R. §280.40 to § 280.45, or used voluntarily to detect leaks, along with:

(a) A detailed description of how the leak detection method(s) is implemented;

(b) Documentation demonstrating that the leak detection was implemented during the last 12 months; and

(c) If the leak detection method is Automatic Tank Gauging (ATG) as per 40 C.F.R. §280.43(d), please also state the manufacturer and model of the ATG along with a description of its capabilities.

(d) If the leak detection method is vapor or groundwater monitoring as per 40 C.F.R. §280.43(e) or (f), please also state how the requirements of those sections are met.

(e) If safe suction is used to prevent releases from piping, document that the construction meets all requirements of Part 280, including piping slope and the absence of any valves, except immediately under the dispensers.

(f) If interstitial monitoring of the tank is used, provide interstitial design details and whether it can detect: (a) a breach in the inner and outer tank walls; or (b) an ingress of product and water into the interstitial space.

9. Provide all information pertaining to known or suspected releases between December 22, 1988, and the date of your response, including, at a minimum, the following information:

(a) All recorded alarms (false or otherwise) from leak detection systems, from any of the UST systems;

(b) Corrective actions taken with respect to releases; and

(c) Include any sampling analysis results and all state documentation such as release notifications and state correspondence.

Closure

10. If any UST system was temporarily closed or out of service between December 22, 1988 and the date of your response, please provide:

(a) The date it was temporarily closed, or taken out of service;

(b) The period of time it was closed, or non-operational; and

(c) Whether the UST system was empty, as defined by 40 C.F.R. § 280.70 (a), during the period of temporary closure.

11. If any UST system is permanently closed, or if there was a change in service from regulated to non-regulated substances, provide:

(a) The date of permanent closure or the change in service; and

(b) A copy of the site assessment report required by 40 C.F.R. §280.72.

UST Maintenance

12. Describe how each UST is maintained (e.g., how is an UST cleaned when cleaning is required, who is responsible for initiating the cleaning, who performs the cleaning, etc.).

13. If any tank has been cleaned of sediments or scale, provide for each cleaned tank:

(a) The date of cleaning;

(b) The name of the company that performed the cleaning;

(c) The volume of waste liquid generated by the cleaning operation; and

(d) Copies of any Toxicity Characteristic Leaching Procedure (TCLP) test (EPA test method 1311) conducted on the material cleaned from the tanks to make a hazardous waste determination.

UST Owner/ Operator History

14. Provide the month/ day/ year that the Veterans Administration Medical Center Northport began ownership and/or operation of each UST system. Specify owner and/or operator status, whichever is applicable.

15. Provide the names and addresses of other entities that own and/or operate USTs at the facility, or that have owned or operated such USTs.

16. Please describe the legal relationship between the owner of the property and the operator of the facility. Provide documentation supporting your statements.

17. If any USTs are/were owned or operated by any other Federal agency or private company, please provide:

(a) The location of such USTs;

(b) The name and address of the Federal agency or private company;

(c) Indication of whether the Federal agency or private company is/was the owner or operator; and

(d) The information requested in questions 1 through 16 above, with respect to such USTs.

ENCLOSURE IV

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in response to EPA's Notice of Violation / Request for Information, and all documents submitted herewith; that the submitted information is true, accurate, and complete; and that all documents submitted herewith are complete and authentic, unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Name (print or type)

_____ _____

SIGNATURE DATE

_____

TITLE

_____

AGENCY

DEPARTMENT OF VETERANS AFFAIRS
Medical Center
79 Middleville Rd
Northport, NY 11768

In Reply Refer To: 632/138

May 22, 2009

Mr. Charles Zafonte
Multimedia Enforcement Coordinator
US Environmental Protection Agency, Region 2
290 Broadway, 21st Floor
New York, NY 10007-1866

Re: US Department of Veterans Affairs, Northport, NY Medical Center March 19, 2009 Notice of Violation and Request for Information

Dear Mr. Zafonte,

Thank you for your time to discuss our April 23, 2009 response to the referenced Notice of Violation (NOV) during our May 4, 2009 conference call. The NOV alleges ten violations of regulation promulgated under 40 CFR 280 pertaining to underground storage tanks. The NOV was issued based on your January13, 2009 inspection of the Veterans Affairs Medical Center site located at 79 Middleville Road, Northport NY 11768. In addition, you requested additional information pursuant to Section 9005 (a) of RCRA, 42 USC 6991d (a), and 40 CFR 280.34. The Northport Veterans Affairs Medical Center is submitting this letter as a good-faith effort to resolve the concerns raised in the NOV. As requested we have supplied additional information in an effort to clarify our previous correspondence and have modified our responses to address each bulleted question posed in the aforementioned NOV.

Question #1: When requested, facility representatives could provide no evidence of notification to the state or county of UST's at the facility.

The enclosed letter dated 12/2/05 (Enclosure 1) from County of Suffolk (local agency) acknowledges receipt of a Suffolk County Department of Health Service Toxic Liquid Storage Registration Form dated 8/2/05 (Enclosure 2). A Suffolk County Tank Compliance Inspection Form, dated 12/18/2007, indicates that the County is aware and has inspected the UST's at our facility (Enclosure 3). To further clarify which tanks (numbers) are associated with what buildings (numbers) the attached Site Plan, dated January 13, 2009 has been provided (Enclosure 4).

Question #2: Twelve months of release detection records could not be provided for the 1,000 gallon UST at Building T-127 that supplies gasoline for vehicles.

The Veeder-Root TLS-350 leak detection device (Enclosures 5&6) for the 4,000 gallon UST at Building T-127 (Tank # 49 on Site Plan) was inspected and found to be in good working condition. Northport VAMC has leak detection documentation dating back to 11/24/08 (Enclosure 7) Northport VAMC will continue to monitor the aforementioned system on a weekly basis and maintain the release detection record for a minimum of 12 months.

Question #3: The 550 gallon UST storing diesel fuel for the Well House #2 auxiliary engine in Building 30 was observed to have no tank or piping release detection. Facility representatives stated that none exists.

Tank and piping release detection exists in Well house #2 for Tank # 51 on Site Plan (Enclosure 8). Monitoring records are maintained by the facility (Enclosure 9).

Question #4: The UST storing gasoline for the Well House #3 auxiliary engine has release detection, but facility representatives could offer no release detection records for the last twelve months.

Monitoring records are maintained by the facility (Enclosure 9).

Question #5: At the time of the inspection, the Veeder-Root TLS 350 for the two tanks at T-127 (an UST and AST used for vehicles) displayed a warning light for "Liquid." Facility representatives could provide no explanation for the cause or the warning light, or steps taken to address the problem.

The cause of the warning light and subsequent "liquid" indicator was due to an empty electrical conduit that allowed ground water to enter the spill box. The conduit was capped on April 3, 2009 by in house personnel at negligible cost. Issue resolved. The Veeder-Root TLS-350 leak detection device was inspected found to be in good working condition on 4/15/09 by the service generator (G.M.Dege) (Enclosures 5 & 6). To prevent recurrence, the Northport VAMC has trained employees to investigate and correct the alarm condition if an alarm is displayed.

Question #6: Oil was observed in the spill bucket for the 1,000 gallon diesel fuel UST for Building 215.

The fuel was removed from the spill bucket on 4/10/09 by in house personnel at negligible cost (Tank #61 on Site Plan). The last recorded fuel oil delivery for this tank was September 2007. We have instituted steps to examine each spill bucket at the time of delivery to ensure timely removal of spilled oil

Question #7: A 1,000 gallon UST storing diesel fuel for an emergency generator day tank near the sewage treatment plant / Building 210 was observed to have oily fluid in the spill bucket.

The fuel has been removed from the spill bucket on 4/13/09 by in house personnel at negligible cost (Tank # 52 on Site Plan). The last recorded fuel oil delivery for this tank was September 2007. We have instituted steps to examine each spill bucket at the time of delivery to ensure timely removal of spilled oil.

Question #8: The 1,000 gallon UST for Building 212 was equipped with an overfill alarm, but it did not sound when tested.

The Building 212 (Tank # 60 on Site Plan) Omntec alarm panel, located approximately 15' form the fill port (Enclosure 10) was inspected and found to be in proper working condition on 4/15/09 by the service contractor (G.M.Dege). Status of overfill alarms will be monitored on a weekly basis by a third party contractor and on the monthly tank inspection reports.

Question #9: The 1,000 gallon diesel fuel UST for Building 215 had an overfill alarm that sounded, when tested, but would not shut off.

The Building 215 (Tank # 61 on Site Plan). Omntec alarm panel was inspected and found to be in proper working condition on 4/15/09 by the service contractor (G.M.Dege). Status of overfill alarms will be monitored on a weekly basis by a third party contractor and on the monthly tank inspection reports.

Question #10: The overfill alarm for the 1,000 gallon UST storing diesel fuel for an emergency generator day tank near the sewage treatment plant/ Building 210 has not been functional since at least April 13, 2005, according to facility records. Facility representatives stated that this was "turned in a year ago."

Northport will monitor the leak detection system (Enclosure 11) on a weekly basis until the monitoring and documentation of same will be contracted to a third party. The emergency generator that this tank supplies (Tank #52 on Site Plan) was placed in service in 2008.

Other Information Requested:
Attached please find Northport VAMC's response to the additional information requested.

Our employees, at the Northport VAMC, strive to ensure compliance with relevant environmental regulations and value your suggestion and feed back regarding the responses provided above. If you require additional information, please do not hesitate to contact my office at (631) 261-4400 ext 7077.

Sincerely,

Christopher M. Gowrie
Chief, Engineering Service

GEMS RECOMMENDED ACTIONS:

1) Immediately Notify Legal Counsel at VISN to review proposed answer to complaint prepared by GEMS Coordinator.

2) Retain a pump and tank contractor by credit card purchase <$2,500.00 under supervision of GEMS Coordinator to perform a functionality test to verify all claims by GEMS Coordinator on service and condition of the subject UST.

3) Verify all UST and piping are equipped with interstitial monitoring devices which are designed for continuous leak and spill detection UST System at Building T-127; and the condition of overfill prevention systems were addressed as specified in a written response to USEPA on Many 22, 2009 Buildings 210, 212 and 215.

4) USEPA Proposed Penalty for Northport VAMC is $43,008.00 based on an assessment of the alleged violations. GEMS review of allegations indicates that most of the violations should be withdrawn and cannot be substantiated and the penalty should be lowered to $3,500.00.

5) In lieu of a monetary penalty, GEMS recommends that we propose to install a password protected web based virtual connection to provide continuous monitoring of AST and UST at Northport VAMC. This would be appropriate to satisfy USEPA policy for a Supplemental Environmental project in lieu of monetary penalty for violations of 40 CFR Part 280.

6) Petition VISN for necessary funding to establish an annual service contract as prepared by GEMS Coordinator which is pending authorization.

7) Petition VACO for immediate funding of Project Nos. 1, 2 & 3 recommended on December 6th for approval.

ENCLOSURES:

1) SUMMARY OF USEPA COMPLAINT, COMPLIANCE ORDER & OPPORTUNITY FOR HEARING.
2) GEMS Coordinator Preliminary Review & Answer to USEPA COMPLAINT, COMPLIANCE ORDER & OPPORTUNITY FOR HEARING
3) Northport VAMC Letter to USEPA dated January 23, 2009.
4) USEPA NOV to Northport VAMC dated March 19, 2009.
5) Northport VAMC response to USEPA NOV dated April 23, 2009.
6) Northport VAMC response to USEPA NOV dated May 22, 2009.
7) GEMS Supplemental Environmental Project Information.