



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

December ~~27~~, 2010

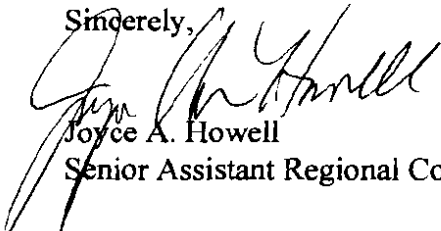
Jennifer Keene
U.S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive
Cincinnati, OH 45268

Re: In the Matter of: L.C.W., Inc. d/b/a Kwik Lube
Docket No. RCRA-03-2011-0043

Dear Ms. Keene:

Enclosed please find a stamped copy of the SCAFO filed in this matter, together with a completed EARCNF. Thank you.

Sincerely,



Joyce A. Howell
Senior Assistant Regional Counsel



EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE FILLED OUT BY ORIGINATING OFFICE:

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

This form was originated by: Joyce Howell
Name of Contact person

December 2, 2010
Date

in the R3 Office of Regional Counsel
Office

at 215-814-2644
Phone number

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

Administrative Order/
Consent Agreement
FMD COLLECTS PAYMENT

SF Jud. Order/Consent
Decree. FMD COLLECTS

This is an original debt

This is a modification

Name of Person and/or Company/Municipality making the payment

L.C.W. d/b/a Kwik Lube

The Total Dollar Amount of Receivable \$3,000.00

(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number RCRA-III-2011-0043

The Site-Specific Superfund Acct. Number _____

The Designated Regional/HQ Program Office: R3 Office of Land Enforcement, Land and Chemicals
Division 3LC70

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call:

Name of Contact

Date

in the Financial Management Office, phone number: _____

3. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint.
4. Respondent neither admits nor denies the Findings of Fact contained in the Complaint, except as provided in Paragraph 3, above.
5. Respondent neither admits nor denies the Conclusions of Law contained in the Complaint, except as provided in Paragraph 3, above.
6. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in the Complaint, and any right to appeal the accompanying Final Order.
7. The settlement agreed to by the parties in this Consent Agreement reflects the desire of the parties to resolve this matter without continued litigation.
8. Respondent consents to the issuance of this Consent Agreement and to the attached Final Order and agrees to comply with their terms. Respondent agrees not to contest Complainant's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement thereof.
9. This Consent Agreement and Final Order resolve only EPA's claims for civil penalties for the specific violations alleged in the Complaint. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice.

10. EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Consent Agreement and Final Order, following its filing with the Regional Hearing Clerk. Respondent reserves all available rights and defenses it may have to defend itself in any such action.
11. Nothing in this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations.
12. The settlement embodied in this Consent Agreement is based in part upon an analysis of Respondent's ability to pay a civil penalty. This analysis was based upon information submitted to Complainant by the Respondent, as listed on Exhibit A to this Consent Agreement. Respondent and its undersigned representative, by such representative's signature to this Consent Agreement, certifies that the information submitted to EPA regarding Respondent's ability to pay is accurate and not misleading.
13. The undersigned representative of Respondent certifies that he is fully authorized to enter into the terms and conditions of this Consent Agreement and bind Respondent hereto. By his signature hereto, Respondent certifies that he is fully authorized to enter into the terms and conditions set forth in this Consent Agreement and to bind the Respondent hereto.
14. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

II. EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

15. EPA's Findings of Fact and Conclusions of Law set forth in the Complaint are hereby incorporated into this Consent Agreement as if set forth fully herein.

III. CERTIFICATION OF COMPLIANCE

16. As to all relevant provisions of RCRA and the State of West Virginia Authorized UST management program allegedly violated as set forth in the Complaint, Respondent certifies to EPA that, upon investigation, to the best of Respondent's knowledge and belief, Respondent is currently in compliance with all such relevant provisions and regulations.

IV. CIVIL PENALTIES

17. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty of **\$3,000**, which Respondent agrees to pay in accordance with the terms set forth below.
18. Having determined that this Consent Agreement is in accordance with law and that the civil penalty amount was determined after consideration of the statutory factors set forth in Section 9006(c)-(e) of RCRA, 42 U.S.C. § 6991e(c)-(e), which include the seriousness of the violation, any good faith efforts to comply with the applicable requirements, the compliance history of the owner and operator, and any other appropriate factors, EPA hereby agrees and acknowledges that payment of the civil penalty shall be in full and final satisfaction of all civil claims for penalties which Complainant may have under Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d), for the violations alleged in this Consent Agreement and Final Order.
19. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United

States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.

20. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a Consent Agreement and Final Order begins to accrue on the date that a copy of the Consent Agreement and Final Order is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
21. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
22. A late payment penalty of six percent per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
23. If Respondent pays the entire civil penalty within thirty (30) calendar days of the date on which this CAFO is mailed or hand-delivered to Respondent, no interest will be assessed against Respondent pursuant to 40 C.F.R. § 13.11(a)(1).

24. Payment of the civil penalty amount described in Paragraph 17 above, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall reference its name and address, and the Docket Number of this action, i.e., Docket No. RCRA-2011-0043.
- b. All checks shall be made payable to "United States Treasury";
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

Contact: Eric Volck 513-487-2105

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

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1028

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

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

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

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

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

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

- h. On-Line Payment Option:

WWW.PAY.GOV

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

- i. Additional payment guidance is available at:

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

- j. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Joyce A. Howell
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

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

V. EFFECTIVE DATE

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

For Respondent:

L.C.W. Inc., d/b/a KWIK LUBE

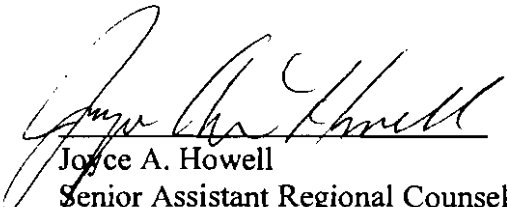
11/18/10
Date

Larry Wallace
Larry Wallace
President, L.C.W., Inc., d/b/a/Kwik Lube

For Complainant:

U.S. Environmental Protection Agency,
Region III


11/23/2010
Date



Joyce A. Howell
Senior Assistant Regional Counsel

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

Date: 12/1/10

By: 

Abraham Ferdas, Director
Land and Chemicals Division

Exhibit A

U.S. Income Tax Returns for the years 2007 – 2009.

Completed Corporate debtor form completed by Larry Wallace, President, L.C.W., Inc.

L.C.W. Corporate Balance Sheet for the years 2007 – 2009.

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

In the Matter of:	:	
	:	
	:	
L.C.W. Inc., d/b/a KWIK LUBE	:	
	:	U.S. EPA Docket No.
	:	RCRA-03-2011-0043
Respondent,	:	
	:	
	:	FINAL ORDER
1522 Third Avenue	:	
Huntington, West Virginia 25701	:	
	:	
Facility.	:	

Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, L.C.W. Inc., d/b/a KWIK LUBE, have executed a document entitled "Consent Agreement" which I hereby ratify in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

NOW, THEREFORE, PURSUANT TO the Consolidated Rules of Practice, and based on the representations in the Consent Agreement, having determined that the penalty agreed to in the Consent Agreement is based on a consideration of the factors set forth in Section 9006(c) and (e) of RCRA, 42 U.S.C. § 6991e(c) and (e), it is hereby ordered that Respondent pay \$3,000.00 in accordance with the Consent Agreement and comply with the terms and conditions of this Consent Agreement.

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

12/2/10
Date

Renée Sarajian
Renée Sarajian
Regional Judicial Officer

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

In the Matter of:

L.C.W. Inc., d/b/a KWIK LUBE

Respondent,

1522 Third Avenue
Huntington, West Virginia 25701

Facility.

U.S. EPA Docket No.
RCRA-03-2011-0043

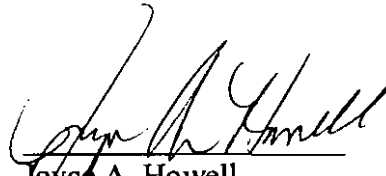
CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent by Federal Express, a copy of the CONSENT AGREEMENT AND FINAL ORDER to the addressee listed below. The original and two copies of the same were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Mr. Larry Wallace
L.C.W., Inc., d/b/a KWIK LUBE
1522 Third Avenue
Huntington, WV 25701

Date:

Dec. 2, 2010


Joyce A. Howell
Senior Assistant Regional Counsel
United States Environmental Protection Agency