



1001 West Memorial Road • P.O. Box 20790 • Oklahoma City, OK 73156 • (405) 752-9619

US EPA Region 6  
Attn: Mr. Jay Przyborski  
1445 Ross Ave, Ste 1200  
Dallas, TX 75202-2733

March 23, 2011

Re: Timely Answer to Administrative Complaint No. RCRA-06-2011-5601

Dear Mr. Przyborski:

On February 4, 2011, I sent my response contesting the alleged violation Certified mail with receipt requested to:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
1445 Ross Avenue, Suite 1200 (6RC-D)  
Dallas, TX 75202-2733

See attached copy sent with Certified mail receipt stamped (received) by the EPA on Feb. 10, 2011.

Since this was received by the above requested address and office, this should satisfy your request. Please send your confirmation of this in writing.

This letter is also being sent by Certified mail and I also am copying the Regional Hearing Clerk as well.

Sincerely,

Steven B. Hanska  
RK Distributing, Inc.

✓ Cc: Regional Hearing Clerk  
1445 Ross Avenue, Suite 1200 (6RC-D)  
Dallas, TX 75202-2733

Attached: Jay Przyborski's letter Re: Timely Answer to Administrative Complaint No. RCRA-06-2011-5601 dated March 16, 2011

FILED  
2011 MAR 28 PM 2:17  
REGIONAL HEARING CLERK  
EPA REGION VI

Copy sent 3/23/11



1001 West Memorial Road •

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
 US EPA  
 1445 Ross Ave, Ste 1200 (6RC-D)  
 Dallas, TX 75202-2733

EPA REGION 6

A. Signature **X**  Agent  Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

FEB 10 2011

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number 7009 3410 0001 3124 5893  
 (Transfer from Service)

Regional Hearing Clerk  
 U.S. Environmental Protection Agency  
 1445 Ross Avenue, Suite 1200 (6RC-D)  
 Dallas, TX 75202-2733

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-154

February 4, 2011

RE: RCRA-06-2011-5601;  
 Location: Ethio Mart 5200 S. I-35, OKC, OK 73129

To Whom It May Concern:

I am aware of your concerns about the tank coating installed at the above location on the unleaded tank. My comments about the tank coating thicknesses were based on my opinion at the time of questioning. Everyday I get asked my opinion about petroleum and equipment related issues and I try to answer them to the best of my knowledge in order to help solve the problem. I have been in this industry since 1989 and I have lots of knowledge of many things some of which I know about tank coatings.

Yesterday, I was able to contact the original tank coating installer that we hired, Mr. Willie Gravitt with Advanced Sandblasting. I asked him about his tank coating procedures and his response was "I followed the EPA and OCC guidelines for the internal lining of tanks". He also recalled and commented that the tank in question was "in excellent condition and needed no repairs of any kind". With that being said, I now understand that my opinion made about the tank coating thickness was wrong. I have never been in the business of coating tanks; therefore, my statement about coating thicknesses was my opinion and not fact.

Sincerely,

Steven B. Hanska  
 RK Distributing, Inc.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS TX 75202-2733

MAR 10 2011

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

**7007 0710 0002 1385 1972**

R. K. Distributing, Inc.  
Attn: Mr. Steve Hanska, Director  
1001 West Memorial Road  
Oklahoma City, Oklahoma 20790

Re: Timely Answer to Administrative Complaint No. RCRA-06-2011-5601

Dear Mr. Hanska:

On January 31, 2011, RK Distributing was served with a Complaint that alleges violation of the U.S. Environmental Protection Agency's (EPA's) underground storage tank (UST) regulations and the Solid Waste Disposal Act. This Complaint instructed that if you contest any material fact upon which the Complaint is based, contend that the amount of the proposed penalty is inappropriate, or contend that you are entitled to judgment as a matter of law, you must file a written answer with the Regional Hearing Clerk for EPA Region 6 not later than thirty days after service of the Complaint. This thirty day period has passed, the penalty has gone unpaid, and no answer has been filed.

EPA is prepared to file a motion for default judgment which, if granted, would make a civil penalty of \$11,580.00 due and payable by RK Distributing, Inc., without further action. Enclosed with this letter is an additional copy of the Consolidated Rules of Practice (40 C.F.R. Part 22) which governs EPA administrative penalty actions. I direct your attention to 40 C.F.R. § 22.17 which discusses default.

EPA must consider several factors when assessing civil penalties, including ability-to-pay considerations. If you feel that you are unable to pay the penalty and would like to assert an ability-to-pay defense, you must submit 5 years of corporate tax returns.

EPA remains open to settling this matter with you and will consider a reasonable offer. I direct your attention to 40 C.F.R. § 22.18 which discusses settlement. If you would like to discuss settlement or if you have any legal questions about the Complaint, you may contact me at (214) 665-6605. However, if RK Distributing does not file an Answer to the Complaint within 15 days of receipt of this letter, EPA will file a motion for default judgment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jay Przyborski".

Jay Przyborski  
Assistant Regional Counsel