

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

In the Matter of:

ST Linden Terminal, LLC  
Linden, New Jersey,

Respondent

In a proceeding under Section 113(d)  
of the Clean Air Act, 42 U.S.C. § 7413(d)

CONSENT AGREEMENT  
AND  
FINAL ORDER

CAA-02-2013-1204

REGIONAL HEARING  
CLERK

2013 MAY 29 A 10: 01

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II

**PRELIMINARY STATEMENT**

This Consent Agreement and Final Order (CAFO) simultaneously commences and concludes an administrative penalty proceeding brought by the Complainant, the Director of the Division of Enforcement and Compliance Assistance for the U.S. Environmental Protection Agency (EPA) Region 2, against Respondent ST Linden Terminal, LLC (ST Linden or Respondent), pursuant to Section 113(d) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7413(d), and Rules 22.13(b) and 22.18(b) of EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties (Consolidated Rules of Practice), 40 C.F.R. Part 22.

The Consent Agreement is signed by the Complainant and Respondent, and the Final Order is issued by the Region 2 Regional Administrator. As set forth in the "Jurisdictional Allegations" section of the Consent Agreement, the Complainant is duly authorized to sign consent agreements and the Regional Administrator is duly authorized to issue final orders.

## **CONSENT AGREEMENT**

### **General Provisions**

1. EPA has determined that Respondent violated the CAA and its implementing regulations at Respondent's petroleum bulk terminal storage facility (Facility) located at 4501 Tremley Point Road, Linden, New Jersey. In general, the violations involve Respondent's failure to comply with CAA Sections 111 and 114 and 40 C.F.R. Part 60, Subpart Kb by failing to conduct an internal seal inspection for Tank 2613 (fixed roof tank equipped with an internal floating roof) by February 1, 2012.

2. The specific violations identified by EPA are set forth below in the section of the Consent Agreement entitled "Conclusions of Law." The purpose of this Consent Agreement and attached Final Order is to resolve those specific violations by simultaneously commencing and concluding an administrative penalty proceeding concerning the violations, as contemplated by Consolidated Rules of Practice §§ 22.13(b) and 22.18(b).

3. For the purposes of this administrative penalty proceeding, and to avoid the expense of protracted litigation, Respondent:

- a. admits the jurisdictional allegations set forth below in the section of this Consent Agreement entitled "Jurisdictional Allegations;"
- b. neither admits nor denies the findings of fact set forth in the section of this Consent Agreement entitled "Findings of Fact,"
- c. consents to the payment of the civil penalty specified in the section of this Consent Agreement entitled "Settlement," on the terms specified in that section;
- d. consents to the issuance of the attached Final Order; and
- e. waives any right to contest the allegations set forth in the "Conclusions of Law" section of this Consent Agreement and any right to appeal the attached Final Order.

### **Jurisdictional Allegations**

4. Section 113(d) of the CAA authorizes the EPA Administrator to issue an order assessing civil administrative penalties against any person that has violated or is violating any requirement or prohibition of subchapters I, III, IV-A, V or VI of the Act, or any requirement or prohibition of any rule, order, waiver, permit or plan promulgated pursuant to any of those subchapters, including but not limited to any regulation promulgated pursuant to Sections 111 and 114 of the Act.

5. Section 302(e) of the CAA provides that whenever the term “person” is used in the Act, the term includes an individual, corporation, partnership, association, state, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

6. Pursuant to EPA Delegation of Authority 7-6-A and EPA Region 2 Delegation of Authority 7-6-A, the Administrator has delegated to the Complainant, the Director of the Division of Enforcement and Compliance Assistance, through the Region 2 Regional Administrator, the authority to (a) make findings of violations, (b) issue CAA Section 113(d) administrative penalty complaints, and (c) agree to settlements and sign consent agreements memorializing those settlements, for CAA violations that occur in the State of New York, the State of New Jersey, the Commonwealth of Puerto Rico, and the Territory of the U.S. Virgin Islands.

7. Pursuant to EPA Delegation of Authority 7-6-C, the Administrator has delegated to the Region 2 Regional Administrator the authority to execute CAA Section 113(d) Final Orders.

8. As contemplated by Section 113(d), the Administrator and the Attorney General, through their respective delegates, have jointly determined that this matter is appropriate for an administrative penalty proceeding. Specifically, on March 8, 2013, the United States Department of Justice (DOJ) granted EPA's request for a waiver of the CAA Section 113(d) time limitation on EPA's authority to initiate an administrative penalty action in this matter.

9. Respondent is a "person" within the meaning of Section 302(e) of the Act.

### **Legal Background**

#### **CAA Section 111**

10. Section 111 of the CAA requires EPA to promulgate "standards of performance" for "new sources" of air pollution within each category of sources that EPA determines cause or contribute to harmful air pollution. A "New source" is defined as any stationary source, the construction or modification of which is commenced after the publication of the NSPS regulations or proposed NSPS regulations applicable to such source. 42 U.S.C. § 7411(a)(2). A "Stationary source" is defined as a building, structure, facility, or installation which emits or may emit any air pollutant. 42 U.S.C. § 7411(a)(3).

11. Standards of performance promulgated pursuant to CAA Section 111 are generally known as New Source Performance Standards, or NSPS, and are codified at 40 C.F.R. Part 60.

12. CAA Section 111(e) makes it unlawful to operate a new source in violation of an NSPS that applies to that source.

#### **CAA Section 114**

13. Section 114 of the CAA authorizes the EPA Administrator to require testing, monitoring, record-keeping, and reporting of information, to enable him or her to carry out any

provision of the Act (except certain provisions in subchapter II) and to assess compliance with, among other requirements, any regulations promulgated under Sections 111 and 112 of the Act.

*The NSPS General Provisions – 40 C.F.R. Part 60, Subpart A*

14. Pursuant to CAA Section 111, EPA has promulgated regulations – the NSPS General Provisions, codified at 40 C.F.R. Part 60, Subpart A – that set forth definitions, procedures and other requirements that apply to all sources subject to an NSPS.

15. The NSPS General Provisions “apply to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication in [Part 60] of such new or revised standard (or, if earlier, the date of publication of any proposed standard) applicable to that facility.”

40 C.F.R. § 60.1.

16. 40 C.F.R. § 60.2 contains the following definitions, among others:

- a. “affected facility” means, with reference to a stationary source, any apparatus to which a standard is applicable.
- b. “owner or operator” means any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source of which an affected facility is a part.

17. 40 C.F.R. § 60.11(a) provides that compliance with the NSPS General Provisions, other than the opacity standards, must be determined in accordance with performance tests established by § 60.8, unless otherwise specified in the applicable NSPS Subpart.

18. 40 C.F.R. § 60.11(d) of the NSPS General Provisions provides that at all times, including periods of startup, shutdown, and malfunction, owners and operators must, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions.

40 C.F.R. Part 60, Subpart Kb

19. Pursuant to Sections 111(b)(1)(A) and 114 of the CAA, EPA identified synthetic organic chemical manufacturing industry and volatile organic liquid (VOL) storage vessels and handling equipment as one category of stationary sources that cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.

20. On April 8, 1987, pursuant to Sections 111(b)(1)(B) and 114, EPA promulgated 40 C.F.R. Part 60, Subpart Kb, §§ 60.110b through 60.117b, Standards of Performance for VOL Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984 (NSPS Subpart Kb).

21. 40 C.F.R. § 60.110b(a) provides that, except as provided in § 60.110b(b), an affected facility is subject to NSPS Subpart Kb if each storage vessel with a capacity greater than or equal to 75 cubic meters ( $m^3$ ) is used to store VOL for which construction, reconstruction, or modification is commenced after July 23, 1984.

22. 40 C.F.R. § 60.110b(b) provides that NSPS Subpart Kb does not apply to storage vessels with a capacity greater than or equal to 151  $m^3$  storing a liquid with a maximum true vapor pressure less than 3.5 kilopascals (kPa) or with a capacity greater than or equal to 75  $m^3$  but less than 151  $m^3$  storing a liquid with a maximum true vapor pressure less than 15.0 kPa.

23. 40 C.F.R. § 60.111b defines "storage vessel" as each tank, reservoir, or container used for the storage of volatile organic liquids but does not include: (1) frames, housing, auxiliary supports, or other components that are not directly involved in the

containment of liquids or vapors; (2) subsurface caverns or porous rock reservoirs; or  
(3) process tanks.

24. 40 C.F.R. § 60.111b defines “volatile organic liquid (VOL)” as any organic liquid which can emit volatile organic compounds (as defined in 40 C.F.R. § 51.100) into the atmosphere.

25. 40 C.F.R. § 60.112b(a)(1) provides that the owner or operator of each storage vessel either with a design capacity greater than or equal to 151 m<sup>3</sup> containing a VOL that, as stored, has a maximum true vapor pressure equal to or greater than 5.2 kPa but less than 76.6 kPa or with a design capacity greater than or equal to 75 m<sup>3</sup> but less than 151 m<sup>3</sup> containing a VOL that, as stored, has a maximum true vapor pressure equal to or greater than 27.6 kPa but less than 76.6 kPa, must equip each storage vessel, that has a fixed roof in combination with an internal floating roof, with one of the requirements specified in 40 C.F.R. § 60.112b(a)(1)(i) - (ix).

26. 40 C.F.R. § 60.113b(a)(2) provides that for storage vessels with permanently affixed roof and internal floating roof (equipped with a liquid mounted or mechanical shoe primary seal), each owner or operator must visually inspect the internal floating roof and the primary seal or the secondary seal (if one is in service) through manholes and roof hatches on the fixed roof at least once every 12 months after initial fill. The Section further provides that if the internal floating roof is not resting on the surface of the VOL inside the storage vessel, or there is liquid accumulated on the roof, or the seal is detached, or there are holes or tears in the seal fabric, the owner or operator must repair the items or empty and remove the storage vessel from service within 45 days. Furthermore, if a failure that is detected during inspections required in 40 C.F.R. § 60.113b(a)(2) cannot be repaired within 45 days and if the vessel cannot be emptied

within 45 days, a 30-day extension may be requested from the Administrator in the inspection report required in 40 C.F.R. § 60.115b(a)(3) and such a request for an extension must document that alternate storage capacity is unavailable and specify a schedule of actions the company will take that will assure that the control equipment will be repaired or the vessel will be emptied as soon as possible.

27. 40 C.F.R. § 60.113b(a)(4) requires the owner or operator storage tanks to visually inspect the internal floating roof, the primary seal, the secondary seal (if one is in service), gaskets, slotted membranes and sleeve seals (if any) each time the storage vessel is emptied and degassed. The Section further provides that if the internal floating roof has defects, the primary seal has holes, tears, or other openings in the seal or the seal fabric, or the secondary seal has holes, tears, or other openings in the seal or the seal fabric, or the gaskets no longer close off the liquid surfaces from the atmosphere, or the slotted membrane has more than 10 percent open area, the owner or operator must repair the items as necessary so that none of the conditions specified in 40 C.F.R. § 60.113b(a)(4) exist before refilling the storage vessel with VOL. In no event must inspections conducted in accordance with this provision occur at intervals greater than 10 years in the case of vessels conducting the annual visual inspection as specified in 40 C.F.R. § 60.113b(a)(2) and (a)(3)(ii) of NSPS Subpart Kb and at intervals no greater than 5 years in the case of vessels specified in 40 C.F.R. § 60.113b(a)(3)(i) of NSPS Subpart Kb.

28. 40 C.F.R. § 60.115b provides that the owner or operator of each storage vessel, as specified in 40 C.F.R. § 60.112b(a), must keep records and furnish reports as required by 40 C.F.R. § 60.115b(a), (b), or (c) depending upon the control equipment installed to meet the requirements of 40 C.F.R. § 60.112b. The Section further requires that the owner or operator must keep copies of all reports and records required by 40 C.F.R. § 60.115b, except for the



record required by 40 C.F.R. § 60.115b(c)(1), for at least 2 years. Furthermore, the record required by 40 C.F.R. § 60.115b(c)(1) will be kept for the life of the control equipment.

29. 40 C.F.R. § 60.115b(a) requires that after installing control equipment in accordance with 40 C.F.R. § 60.112b(a)(1) (fixed roof and internal floating roof), the owner or operator must meet the requirements of 40 C.F.R. § 60.115b(a)(1)-(4).

30. 40 C.F.R. § 60.115b(a)(1) requires the owner or operator to furnish the Administrator with a report that describes the control equipment and certifies that the control equipment meets the specifications of 40 C.F.R. § 60.112b(a)(1) and 40 C.F.R. § 60.113b(a)(1).

31. 40 C.F.R. § 60.115b(a)(2) requires the owner or operator to keep a record of each inspection performed as required by 40 C.F.R. § 60.113b(a)(1), (a)(2), (a)(3), and (a)(4). The Section also requires that the record must identify the storage vessel on which the inspection was performed and contain the date the vessel was inspected and the observed condition of each component of the control equipment (seals, internal floating roof, and fittings).

32. 40 C.F.R. § 60.115b(a)(3) provides that if any of the conditions described in 40 C.F.R. § 60.113b(a)(2) are detected during the annual visual inspection required by 40 C.F.R. § 60.113b(a)(2), a report shall be furnished to the Administrator within 30 days of the inspection. The Section also requires that the report shall identify the storage vessel, the nature of the defects, and the date the storage vessel was emptied or the nature of and date the repair was made.

CAA Title V and New Jersey's Title V Operating Permit Program

33. Title V of the CAA consists of Sections 501 to 507 of the Act, 42 U.S.C. §§ 7661-7661f.

34. In general, Title V of the CAA requires each “major source” to obtain an operating permit setting forth all of the air pollution requirements that apply to that source, and also provides for the creation of state and federal programs to issue such permits.

35. Section 501(a) of the CAA provides that the term “major source,” as used in Title V of the CAA, means any stationary source or group of stationary sources located within a contiguous area and under common control that is a major source as defined in either Section 112 of the Act or Section 302 of the Act or part D of subchapter I of the Act.

36. Section 502(a) of the CAA makes it unlawful to violate any requirement of a Title V Operating Permit and also makes it unlawful to operate a major source except in compliance with such a permit.

37. Section 502(b) of the CAA requires EPA to promulgate regulations establishing the minimum elements of a Title V Operating Permit program and sets forth the procedures by which EPA will approve, oversee, and withdraw approval of state operating permit programs.

38. Section 502(d) of the CAA requires each state to develop and submit to EPA a permit program meeting the requirements of Title V of the Act.

39. Section 502(e) of the Act provides that EPA retains the authority to enforce Title V Operating Permits issued by a State.

40. Section 503 of the CAA sets forth requirements for permit applications and provides that major sources are required to have Title V Operating Permits by the later of (i) the effective date of the permit program applicable to the source, or (ii) the date on which the source becomes a major source.

41. Section 504 of the CAA specifies requirements and conditions that must be included in any Title V Operating Permit.

42. Consistent with Section 502(b) of the Act, EPA promulgated 40 C.F.R. Parts 70 and 71. 40 C.F.R. Part 70 sets forth minimum requirements for state Title V Operating Permit programs. 40 C.F.R. Part 71 contains the federal Title V Operating Permit program, including, among other elements, the procedures by which EPA will issue Title V Operating Permits.

43. EPA granted interim approval of the New Jersey Title V Operating Permit program, N.J.A.C. 7:27-22, with an effective date of June 17, 1996. 61 Fed. Reg. 24715 (May 16, 1996).

44. EPA granted final full approval to the program, with an effective date of November 30, 2001. 66 Fed. Reg. 63168 (Dec. 5, 2001).

*The Facility's Title V Operating Permit Requirements*

45. On November 13, 2002, New Jersey Department of Environmental Protection (NJDEP) issued Respondent an initial Title V operating permit.

46. On October 23, 2003, NJDEP approved a modification, BOP030001, to increase the permitted annual throughputs for all storage tanks and requires all storage tanks at the Facility must comply with NSPS Subpart Kb.

47. NJDEP approved an administrative amendment modification to Respondent's initial Title V operating permit on August 1, 2011, BOP110001, which is the current permit for the Facility (Title V Permit).

48. Respondent's Title V Permit indicates that ST Linden is the owner of the Facility.

49. Respondent's Title V Permit indicates that Tank 2613 is an internal floating roof storage tank subject to NSPS Subpart Kb. *See* Title V Permit, Emission Unit: U1 16 Internal Floating Roof Storage Tanks (subject to NSPS Subpart Kb and MACT Subpart R) section.

50. Respondent's Title V Permit indicates that Tank 2613 is identified as NJ Equipment ID E5 and Emission Unit U1-Operating Scenarios OS13-15.

51. Respondent's Title V Permit indicates that Tank 2613 was installed on January 1, 1984.

### **Findings of Fact**

52. The factual findings set forth below are based on an investigation conducted by EPA Region 2 personnel pursuant to Section 114 of the CAA.

53. Respondent owns and operates a petroleum bulk terminal storage facility (Facility) located at 4501 Tremley Point in Linden, New Jersey.

54. The Facility was constructed before 1987.

55. The Facility's Standard Industrial Classification (SIC) Code is 4226 (Special Warehousing and Storage).

### **ST Linden Letter Request**

56. By letter, dated February 10, 2012 (Letter), to the NJDEP, Respondent requested an extension of time until October 31, 2012 to conduct a 10-year internal seal inspection on its Tank 2613 pursuant to 40 C.F.R § 60.113b(a)(4).

57. NJDEP does not have authority to approve such an extension of time and informed Respondent to contact EPA.

58. On February 15, 2012 a Tim J. Roessler, Regional HSE Manager of the Facility, contacted EPA requesting the extension.
59. The Letter indicates that Respondent's Facility is a third party terminal warehouse which leases its storage tanks to other companies.
60. The Letter indicates that Respondent's Tank 2613 is subject to NSPS Subpart Kb.
61. The Letter states that Respondent's Tank 2613 is a transmix tank used to collect various comingled petroleum products, such as gasoline, diesel, and kerosene, from pressure safety relief devices and pipeline product interfaces.
62. The Letter states that Tank 2613 is the only transmix tank at the Facility that is not leased by a third party customer.
63. The Letter states that Respondent conducted an internal floating roof seal inspection on Tank 2613 in February 2002.
64. The 10-year internal seal inspection for Tank 2613 was to be completed in February 2012.
65. The Letter states that Respondent made arrangements to use alternate storage for transmix while Tank 2613 was out of service, but those arrangements are no longer an option as the contracted customer will not permit use of another storage tank.
66. The Letter states that Respondent is requesting the extension in order to remove Tank 2613 from service so that an alternate means of storage can be arranged.
67. The Letter indicates that Respondent had a third party contractor, Allentech, conduct a visual seal inspection on Tank 2613 on February 8, 2012 and the tank was found to be in compliance with the requirements of 40 C.F.R. § 60.113b(a)(2). In addition, Respondent

agreed to conduct monthly visual inspections to continue to demonstrate that Tank 2613 was not leaking until the ten-year inspection was completed.

Compliance Order and Other Information

68. On July 24, 2012, EPA issued a Compliance Order for Respondent to do the following requirements for Tank 2613:

- a) Submit to the monthly in-service seal inspection report, as required by 40 C.F.R. § 60.113b(a)(2);
- b) By no later than October 31, 2012 conduct a 10-year internal seal inspection in accordance with 40 C.F.R. § 60.113b(a)(4); and
- c) By no later than 30 days after conducting the 10-year internal seal inspection, submit the inspection report to EPA.

69. By letter dated, August 24, 2012, Respondent submitted EPA monthly in-service seal inspection reports for Tank 2613 for the period from February 2012 through August 2012.

70. By letter dated, November 14, 2012, Respondent submitted the 10-year internal seal inspection for Tank 2613.

71. By email dated, March 14, 2013, Respondent's counsel confirmed that Respondent is also the operator of the Facility.

Conclusions of Law

72. Based on the Findings of Fact set forth above, EPA reaches the following Conclusions of Law:

General Conclusions

73. At all times relevant to this Consent Agreement:

- a) Respondent is a "person" within the meaning of Section 302(e) of the Act.
- b) Respondent is the owner and operator of the Facility.

- c) Respondent's Facility has been an affected facility within the meaning of 40 C.F.R. § 60.2, with storage tanks subject to NSPS Subpart Kb.
- d) The Facility is subject to NSPS Subpart Kb as cited in its Title V Permit.

Specific Violations

74. Respondent's failure to conduct the 10-year internal seals inspection for its Tank 2613 by the required date (see paragraph 64 above) is a violation of: 40 C.F.R. § 60.113b(a)(4).

75. Respondent's violation of 40 C.F.R. § 60.113b(a)(4) is a violation of CAA Section 111(e).

Settlement

76. Pursuant to Section 113(d) of the Act, Respondent shall pay a civil penalty of \$45,322, and shall pay that penalty by no later than the Due Date, which is thirty days after the date of the signature on the attached Final Order. Respondent shall have the option of paying the \$45,322 either by corporate, cashiers' or certified check. Respondent shall: (1) clearly type or write the docket number (CAA-02-2013-1204) on the check to ensure proper payment; (2) make the check payable to the order of "Treasurer, United States of America;" and (3) send the check to:

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

Respondent shall send notice of payment to the following:

Kenneth Eng, Chief, Air Compliance Branch  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency – Region 2

290 Broadway – 21st Floor  
New York, New York 10007

and

Kara E. Murphy  
Office of Regional Counsel  
U.S. Environmental Protection Agency – Region 2  
290 Broadway – 16th Floor  
New York, New York 10007

77. If Respondent fails to make full, complete and timely payment of the \$45,322 penalty that is required by this CAFO, this case may be referred by EPA to the United States Department of Justice and/or the United States Department of the Treasury for collection. In such an action, pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5) and 31 U.S.C. § 3717, Respondent shall pay the following amounts:

- a. Interest. If Respondent fails to make payment, or make partial payment, any unpaid portion of the assessed penalty shall bear interest at the rate established pursuant to 31 U.S.C. § 3717 and 26 U.S.C. § 6621 from the payment Due Date.
- b. Handling Charges. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of fifteen dollars (\$15.00) shall be paid if any portion of the assessed penalty is more than thirty (30) days past the payment Due Date.
- c. Attorney Fees, Collection Costs, Nonpayment of Penalty. If Respondent fails to pay the amount of an assessed penalty on time, pursuant to 42 U.S.C. § 413(d)(5), in addition to such assessed penalty and interest and handling assessments, Respondent shall also pay the United States' enforcement expenses, including but not limited to attorney fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such a failure to pay persists. Such nonpayment penalty shall be ten percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties accrued from the beginning of such quarter.

78. This Consent Agreement is being entered into voluntarily and knowingly by the parties in full settlement of Respondent's alleged violations of the Act set forth herein.

79. Nothing in this Consent Agreement and attached Final Order shall relieve Respondent of the duty to comply with all applicable provisions of the Clean Air Act and other



environmental laws and it is the responsibility of the Respondent to comply with such laws and regulations.

80. This Consent Agreement and attached Final Order shall not affect the right of the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

81. This Consent Agreement, attached Final Order, and any provision herein is not intended to be an admission of liability in any adjudicatory or administrative proceeding, except in an action, suit, or proceeding to enforce this CAFO or any of its terms and conditions.

82. Respondent explicitly waives its right to request a hearing and/or contest allegations in this Consent Agreement and explicitly waives its right to appeal the attached Final Order.

83. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.08 to be present during discussions with, or to be served with and to reply to any memorandum or communication addressed to, the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to recommend that such official accept this Consent Agreement and issue the attached Final Order.

84. Each party to this Consent Agreement shall bear its own costs and attorneys' fees in this action resolved by this Consent Agreement and attached Final Order.

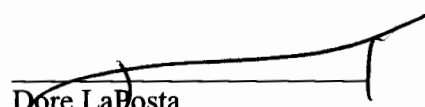
85. The Consent Agreement and attached Final Order shall be binding on Respondent and its successors and assignees.

86. Each of the undersigned representative(s) to this Consent Agreement certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms and conditions of this Consent Agreement and bind that party to it.

**Signatures**

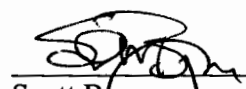
For Complainant:

Date:

  
\_\_\_\_\_  
Dore LaPosta  
Director, Division of Enforcement and Compliance Assistance

MAY 22, 2013

For Respondent:

  
\_\_\_\_\_  
Scott Bergman  
Vice President

5-15-13

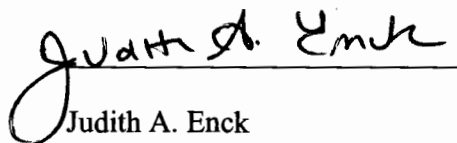
ST Linden Terminal, LLC  
CAA-02-2013-1204

**FINAL ORDER**

The Regional Administrator of EPA, Region 2, concurs in the foregoing Consent Agreement, in the matter of ST Linden Terminal, LLC, CAA-02-2013-1204. The Consent Agreement, entered into by the parties, is hereby approved and issued, as a Final Order.

Pursuant to EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, this Final Order becomes effective at the time it is filed by Complainant's representatives with the Region 2 Regional Hearing Clerk.

DATE: 5/28/13

  
Judith A. Enck  
Regional Administrator  
United States Environmental  
Protection Agency, Region 2

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 Broadway  
New York, NY 10007-1866

**IN THE MATTER OF:**

ST Linden Terminal, LLC.  
Linden, New Jersey

**Respondent**

Proceeding pursuant to Section 113(d) of the  
Clean Air Act, 42 U.S.C. § 7413(d)

**CONSENT AGREEMENT**  
**AND**  
**FINAL ORDER**

DOCKET NO. CWA-02-2013-1204

REGIONAL HEARING  
CLERK

2013 MAY 29 A 10: 01

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.11

**CERTIFICATE OF SERVICE**

I certify that I have on this day caused to be sent the foregoing Consent Agreement and Final Order, bearing the above-referenced docket number, in the following manner to the respective addressees below:

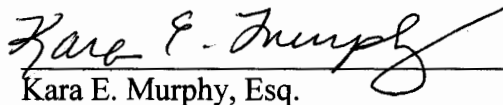
Original and one copy by hand to:

Office of the Regional Hearing Clerk  
U.S. Environmental Protection Agency  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007

Copy by UPS Next Day:

Mr. Michael P. Dillinger  
Environmental Counsel  
NuStar Energy, L.P.  
2330 North Loop 1604 West  
San Antonio, TX 78248

Dated: May 29, 2013  
New York, New York

  
Kara E. Murphy, Esq.