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**October 26, 2007**

Regional Hearing Clerk (3RC00)

US EPA Region III

1650 Arch St.

Philadelphia, PA 19103-2029

**Re: *In Re Euclid of Virginia, Inc.* RCRA 03-2007-0336**

To Whom It May Concern:

Enclosed please find the following:

- Answer, Hearing Request., Settlement Conference Request

Please file this and return a file-stamped copy in the enclosed stamped, self-addressed envelope.

Thank you for your assistance.

Via UPS overnight #A346 316 202 0

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch St.  
Philadelphia, PA 19103-2029**

In the Matter of: )  
Euclid of Virginia, Inc. ) RCRA 03-2007-0336  
Respondent )

**ANSWER DENYING ALL LIABILITY, HEARING REQUEST AND REQUEST  
FOR SETTLEMENT CONFERENCE**

**Request for Hearing and Settlement Conference**

Respondent hereby request a hearing on all issues involved in the instant case.

Respondent hereby request a settlement conference.

**General Statement Regarding Pleading**

Any statements in this Answer admitting allegations in the Administrative Complaint may be construed as admitting the facts stated in a particular paragraph but not admitting that the Respondent committed any of the violations as alleged. Respondent denies committing any violations alleged in the Administrative Complaint.

1-2. At the allegations in paragraphs 1 and 2 are admitted.

**COUNT ONE - 420 RHODE ISLAND AVENUE**

3 - 4. The allegations in paragraphs 3 and 4 are admitted.

5. The allegations in paragraph 5 are denied in so far as Respondent took this tank out of service prior to or during the relevant time period.

6 - 7. The allegations of paragraph 6 and 7 are admitted.

8. The allegations in paragraph 8 are denied. The waste oil tank, identified as RI-4 was empty and/or removed during some or all of the relevant time period.

9. The allegations in paragraph 9 are admitted.

10. The allegations of paragraph 10 are denied.

11. The allegations in paragraph 11 are denied, and it is averred that Tank RI-4 did not require monitoring during some or all of the period issue because that Tank was empty and/or removed.

12. The allegations in paragraph 12 are denied. The automatic tank gauging system was programmed during some or all of the period at issue to perform valid tank release detection monitoring.

13 - 14. The allegations in paragraph 13 and 14 are denied.

15. The allegations in paragraph 15 are denied, and it is averred that monitoring for tank release detection was not required for this tank during the relevant period.

**COUNT TWO - 42382 JOHN MOSBY HIGHWAY**

16. No response required

17 - 24. The allegations of paragraph 17 through 24, inclusive, are admitted.

25 - 29. The allegations in paragraph 25 through 29, inclusive, are denied.

**COUNR THREE - 12793 SPOTTSWOOD TRAIL**

30. No response required.

31 - 34. The allegations in paragraph 31 through 34, inclusive, are admitted.

35 - 37. The allegations in paragraphs 35 through 37, inclusive, are denied.

**COUNT FOUR - 4123 OCEAN GATE HIGHWAY**

38. No response required.

39 - 45. The allegations in paragraph 39 through 45, inclusive, are admitted.

46 - 50. The allegations in paragraph 46 through 50, inclusive, are denied.

**COUNT SIX - 6038 BALTIMORE AVENUE**

51. No response required.

52. The allegations in paragraph 52 are admitted.

53 - 57. The allegations in paragraphs 53 through 57, inclusive, are denied. The tank identified and the Administrative Complaint as HY-3 was taken out of service during some or all of the relevant times. Under the circumstances, this tank was empty and/or removed during some or all of the relevant time period and no release detection was required during some or all the relevant time period.

**COUNT SEVEN - 38 RHODE ISLAND AVENUE**

58. No response required.

59 - 60. The allegations in paragraphs 59 and 60 are admitted.

61. The waste oil tank described as Tank BW-4 in the Administrative Complaint was empty and/or taken out of service for some or all of the relevant period and was not used to store used motor oil prior to being taken out of service.

62 - 63. The allegations in paragraph 62 and 63 are denied. The waste oil tank was not part of a petroleum UST system because it stored only waste oil. The waste oil tank was empty and/or removed for some or all of the relevant period.

64. The allegations in paragraph 64 denied.

65. The allegations of paragraph 65 are denied. Monitoring was not required because this tank was empty during some or all the relevant period.

66 - 70. The allegations in paragraph 66 through 70, inclusive, are denied.

**COUNT THREE - 1576 WISCONSIN AVENUE**

71. No response required.

72 - 73. In the allegations in paragraph 72 and 73 are admitted.

74. The allegations in paragraph 74 denied. During some or all of the relevant time, the tank designated GT-4 in the Administrative Complaint was empty. For all other times, the Respondent maintains fully compliant manual leak detection records.

75. The allegations in paragraph 75 are denied, the tank designated GT-4 in the Administrative Complaint is a waste oil tank which is not a part of the petroleum UST system at the site.

76. The allegations of paragraph 76 are denied. The tank designated in each administrative can complaint as GT-4 was removed and/or empty during some or all of the relevant period.

77 - 82. The allegations in paragraph 77 through 82, inclusive, are denied.

**COUNT EIGHT - 15501 NEW HAMPSHIRE AVENUE**

83. No response required.

84 - 87. The allegations in paragraphs 84 through 87, inclusive, are admitted.

88 - 91. The allegations in paragraphs 88 through 91, inclusive, are denied.

**COUNT NINE - 15501 NEW HAMPSHIRE AVENUE**

92. No response required.

93 - 94. The allegations in paragraph 93 and 94 are admitted.

95. The allegations in paragraph 95 are denied.

96. The allegations in paragraph 96 are denied. Respondent did not have an obligation to

notify any governmental authority because there was no suspected release requiring such notification.

97 - 99. The allegations in paragraphs 97 through 99, inclusive, are denied.

#### **COUNT TEN - 5608 BUCKEYSTOWN PIKE**

100. No response required.

101 - 102. The allegations in paragraphs 101 and 102 are admitted.

103. The allegations in paragraph 103 are denied. The tank designated in the Administrative Complaint as FR-4 was empty and/or removed during some or all of the relevant time period

104. The allegations of paragraph 104 are denied. Tank FR-4 was used solely to store waste oil and so is not part of the petroleum UST system.

105. The allegations in paragraph 105 are denied. During some or all of the relevant time, Tank FR-4 was empty, and/or this tank was removed.

106 - 111. The allegations in paragraphs 106 through 111, inclusive, are denied.

#### **COMPLIANCE ORDER**

It is denied that it is appropriate and are a Compliance Order of any kind in the instant case.

#### **CIVIL PENALTY**

It is denied that it is appropriate to penalize the Respondent in any respect in this case.

#### **Count One - 420 Rhode Island Avenue**

Respondent denies any liability for penalty as alleged in the Administrative Complaint. Prior to the date of the Administrative Complaint, The Respondent had closed the waste oil tank

issue in this matter. Prior to the date of this Complaint, the Respondent engaged a consultant to evaluate all its facilities. This consultant has been interfacing extensively with the EPA and has been providing all requested information and documentation. Any economic benefit gained by the Respondent is minimal, even under the allegations in the Administrative Complaint. The waste oil tank is not a critical component of the operations of the service station.

**Count Two - 42382 John Mosby Highway**

Even as alleged in the Administrative Complaint, any failure to monitor the tank release detection was for a short period of time. Assuming without admitting that the allegations and he Administrative Complaint are true, the allegations do not set out a major deviation for me statutory or regulatory program or a major potential for harm to the environment. As specified above, there is no basis for alleging that Respondent has failed to cooperate with the EPA.

**Count Three - 12793 Spottswood Trail**

Even as alleged in the Administrative Complaint, any failure to monitor the tank release detection was for a short period of time. Assuming without admitting that the allegations and he Administrative Complaint are true, the allegations do not set out a major deviation for me statutory or regulatory program or a major potential for harm to the environment. As specified above, there is no basis for alleging that Respondent has failed to cooperate with the EPA.

**Count Four - 4123 Ocean Gate Hwy**

Even as alleged in the Administrative Complaint, any failure to monitor the tank release detection was for a short period of time. Assuming without admitting that the allegations and he Administrative Complaint are true, the allegations do not set out a major deviation for me statutory or regulatory program or a major potential for harm to the environment. As specified

above, there is no basis for alleging that Respondent has failed to cooperate with the EPA.

**Count Five - 6038 Baltimore Ave**

Respondent denies any liability for penalty as alleged in the Administrative Complaint. Prior to the date of the Administrative Complaint, The Respondent had closed the waste oil tank issue in this matter. Prior to the date of this Complaint, the Respondent engaged a consultant to evaluate all its facilities. This consultant has been interfacing extensively with the EPA and has been providing all requested information and documentation. Any economic benefit gained by the Respondent is minimal, even under the allegations in the Administrative Complaint. The waste oil tank is not a critical component of the operations of the service station.

**Count Six - 3800 Rhode Island Ave**

Even as alleged in the Administrative Complaint, any failure to monitor the tank release detection was for a short period of time. Assuming without admitting that the allegations and he Administrative Complaint are true, the allegations do not set out a major deviation for me statutory or regulatory program or a major potential for harm to the environment. As specified above, there is no basis for alleging that Respondent has failed to cooperate with the EPA.

Respondent denies any liability for penalty as alleged in the Administrative Complaint. Prior to the date of the Administrative Complaint, The Respondent had closed and/or removed the waste oil tank issue in this matter. Prior to the date of this Complaint, the Respondent engaged a consultant to evaluate all its facilities. This consultant has been interfacing extensively with the EPA and has been providing all requested information and documentation. Any economic benefit gained by the Respondent is minimal, even under the allegations in the Administrative Complaint. The waste oil tank is not a critical component of the operations of the



service station.

**Count Seven - 1576 Wisconsin Ave**

Even as alleged in the Administrative Complaint, any failure to monitor the tank release detection was for a short period of time. Assuming without admitting that the allegations and the Administrative Complaint are true, the allegations do not set out a major deviation from a statutory or regulatory program or a major potential for harm to the environment. As specified above, there is no basis for alleging that Respondent has failed to cooperate with the EPA.

**Count Eight - 15501 New Hampshire Ave**

Even as alleged in the Administrative Complaint, any failure to monitor the tank release detection was for a short period of time. Assuming without admitting that the allegations and the Administrative Complaint are true, the allegations do not set out a major deviation from a statutory or regulatory program or a major potential for harm to the environment. As specified above, there is no basis for alleging that Respondent has failed to cooperate with the EPA.

**Count Nine - 15501 New Hampshire Ave**

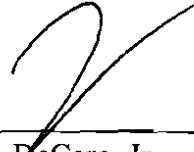
Respondent denies that it responded inappropriately to any failing tank test. As specified above, Respondent is providing information and documentation to the EPA in a manner which is fully cooperative. The Respondent promptly examined the reason for the alarm and determined that there was no leak in the UST system. There is no responsibility on Respondent's part to notify any governmental agency under these circumstances. There were reasons stated above, Respondent should not be penalized.

**Count Ten - 5608 Buckeystown Pike**

Even as alleged in the Administrative Complaint, any failure to monitor the tank release

detection was for a short period of time. Assuming without admitting that the allegations and he Administrative Complaint are true, the allegations do not set out a major deviation for me statutory or regulatory program or a major potential for harm to the environment. As specified above, there is no basis for alleging that Respondent has failed to cooperate with the EPA.

Respectfully submitted,



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Thomas F. DeCaro, Jr.  
Attorney for Respondent  
14406 Old Mill Rd. #201  
Upper Marlboro, MD 20772

301-464-1400

#### **CERTIFICATE OF SERVICE**

I, Thomas F. DeCaro, Jr. do hereby certify that on October 26, 2007, I did mail, postage prepaid, a copy of the foregoing Answer, etc to:

Benjamin Fields  
Senior Assistant Regional Counsel  
Mail Code 3RC30  
Environmental Protection Agency Region III  
1650 Arch St.  
Philadelphia, PA 19103-2029

*Via Regular Mail*

Regional Hearing Clerk  
Mail Code 3RC00  
Environmental Protection Agency Region III  
1650 Arch St.  
Philadelphia, PA 19103-2029

*Via UPS Overnight #A346 316 202 0*



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Thomas F. DeCaro, Jr.