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HEARINGS CLERK
EPA -- REGION 10

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:)	
)	
)	EPA Docket No. RCRA 10-2011-0053
ANESTI AUDEH)	
and AMA MINI MART, INC.)	CONSENT AGREEMENT
)	AND FINAL ORDER
)	
Respondents.)	
_____)	

I. AUTHORITY

1.1. This Consent Agreement and Final Order ("CAFO") is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 9006 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6991e. The Administrator has delegated the authority to issue the Final Order contained in Part IV of this CAFO to the Regional Administrator of EPA Region 10. The Regional Administrator of EPA Region 10 has redelegated this authority to the Regional Judicial Officer.

1.2. Respondents are Anesti Audeh and AMA Mini Mart, Inc.

Anesti Audeh and AMA Mini Mart, Inc.
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U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1037

1.3. Pursuant to Section 9006(d) of RCRA and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA hereby issues, and Respondents hereby consent to the issuance of, the Final Order contained in Part IV of this CAFO.

II. PRELIMINARY STATEMENT

2.1. On March 3, 2011, EPA initiated this proceeding against Respondents pursuant to Section 9006 of RCRA, by issuing a Complaint, Compliance Order, and Notice of Opportunity for Hearing (“Complaint”).

2.2. The Complaint alleged that Respondents’ violations of RCRA subjected them to civil penalties and a Compliance Order.

2.3. The complete factual and jurisdictional basis for proposing the assessment of a civil penalty and Compliance Order is set forth in the Complaint and is incorporated by reference herein.

III. CONSENT AGREEMENT

The parties to this action hereby stipulate as follows:

- 3.1. Respondents admit the jurisdictional allegations contained in the Complaint.
- 3.2. Respondents neither admit nor deny the specific factual allegations contained in the Complaint.

3.3. Respondents waive their right to request an adjudicatory hearing on any issue addressed in this CAFO.

3.4. Respondents represent that they are duly authorized to execute this CAFO and that the party signing this CAFO on their behalf is duly authorized to bind Respondents to the terms of this CAFO.

3.5. Pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, taking into account the seriousness of the violation and Respondents' good faith efforts to comply, EPA and Respondents agree that an appropriate penalty to settle this action is THIRTY THOUSAND DOLLARS (\$30,000).

3.6. Respondents consent to the issuance of the Final Order in Part IV below and to payment of the civil penalty cited in the foregoing paragraph within 30 days of the effective date of the Final Order.

3.7. Payments under this CAFO shall be made by cashier's check or certified check, payable to the order of "Treasurer, United States of America" and shall be delivered to the following address:

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

Respondents shall note on the check the title and docket number of this case. Respondents also may make the penalty payment by wire transfer or credit card in accordance with instructions which can be provided by EPA upon request.

3.8. Respondents shall serve a photocopy of the check or documentation of the wire transfer described above to the Regional Hearing Clerk and EPA at the following two addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900, Mail Stop ORC-158
Seattle, Washington 98101-3140

Katherine Griffith
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900, Mail Stop OCE-082
Seattle, Washington 98101-3140

3.9. If Respondents fail to pay the penalty assessed in this CAFO, Respondents may be subject to an administrative action to collect payment under the federal Debt Collection Act of 1982, as amended, or to a civil action to collect the assessed penalty plus interest, handling charges, and nonpayment penalties as set forth below. In any collection action, the validity, amount, and appropriateness of the penalty are not subject to review.

3.10. Pursuant to 31 U.S.C. § 3717, Respondents shall pay the following amounts:

(a) Interest. Any unpaid penalties shall bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the date a conformed

copy of this CAFO is mailed to Respondents for the civil penalty, provided, however, no interest shall be payable on any portion of the penalties paid within 30 days.

(b) Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the assessed or stipulated penalty is more than 30 days past due.

(c) Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the assessed or stipulated penalty that is more than 90 days past due, which nonpayment penalty shall be calculated as of the day the underlying penalty first becomes past due.

3.11. The penalty described in paragraph 3.5 of this CAFO shall represent civil penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

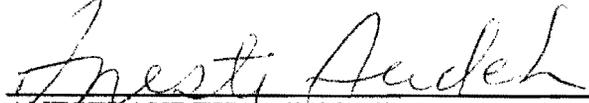
3.12. Each party shall bear its own costs, fees, and disbursements in this action.

3.13. Respondents expressly waive any right to contest the allegations and to appeal the Final Order contained herein and, without admitting or denying the factual allegations contained in the Final Order, consent to the terms of this CAFO.

3.14. Pursuant to 40 C.F.R. § 22.18(c), full payment of the penalty assessed in this CAFO resolves Respondents' liability for federal civil penalties for the violations and facts alleged in the Complaint.

STIPULATED AND AGREED:

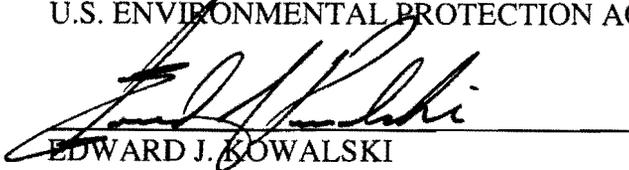
RESPONDENTS



ANESTI AUDEH, individually, and as
President of AMA Mini Mart, Inc.

Dated: 5-25-11

U.S. ENVIRONMENTAL PROTECTION AGENCY



EDWARD J. KOWALSKI
Director
Office of Compliance and Enforcement

Dated: 6/2/2011

IV. FINAL ORDER

4.1. The terms of the foregoing Consent Agreement are hereby ratified and incorporated by reference into this Final Order. Respondents are hereby ordered to comply with the foregoing terms of settlement.

4.2. Based on the findings contained in the Consent Agreement, Respondents are also ordered to comply with the following requirements pursuant to Section 9006(a) of RCRA, 42 U.S.C. § 6991e(a):

- (a) Respondents shall immediately comply with the release detection requirements in 40 C.F.R. § 280.41 for the USTs that contain more than one inch of regulated substances at the three AMA Mini Mart facilities in Klamath Falls, Oregon.

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(b) Within 14 days of the effective date of this Order, Respondents shall provide a copy to EPA of monthly monitoring test results for the month of April 2011 for the USTs referenced in subparagraph (a) above.

(c) Respondents shall continue to provide copies of the monthly monitoring test results to EPA every 30 days for the months of May, June, July, August, September, and October 2011.

(d) Within 30 days of the effective date of this Order, Respondents shall have a tank tightness test conducted on the Super Unleaded Tank at AMA #1 and provide the test results to EPA.

(e) Within 30 days of the effective date of this Order, Respondents shall have a line tightness test and a test of the automatic line leak detector conducted on the piping to the 5,000-gallon compartment of the first tank at AMA #2 which is currently temporarily out of service but contains at least 13 inches of product and provide a copy of the test results to EPA.

(f) Respondents shall provide to EPA copies of all line tightness tests and automatic line leak detector tests for the piping at AMA Mini Marts #1, #2, and #3 for calendar year 2011. Respondents shall provide these test results to EPA within 45 days of having the tests conducted.

(g) Compliance documentation shall be provided to the following address:

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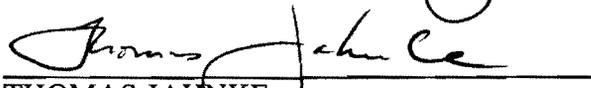
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1037

Katherine Griffith
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900, Mail Stop OCE-082
Seattle, Washington 98101-3140

4.3. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to RCRA for the violations and facts alleged in the Complaint. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondents' obligation to comply with all applicable provisions of RCRA and regulations and permits issued thereunder.

4.4. This Final Order shall become effective upon filing.

SO ORDERED this 9th day of June, 2011



THOMAS JAHNKE
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 10

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in **In the Matter of: Anesti Audeh and AMA Mini Mart, Inc., DOCKET NO. RCRA-10-2011-0053** was filed with the Regional Hearing Clerk on June 9, 2011.

On June 9, 2011, the undersigned certifies that a true and correct copy of the document was delivered to:

Deborah E. Hilsman
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 900, ORC-158
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on June 9, 2011, to:

Mr. Anesti Audeh
AMA Mini Mart, Inc.
522 South Sixth Street
Klamath Falls, Oregon 97601

DATED this 9th day of June 2011.



Signature
Print Name: Carol D. Kennedy
Regional Hearing Clerk
EPA Region 10