

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of:)
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JOSEPH OH)
and HOLLY INVESTMENT, LLC)
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Respondents)
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_____)

Docket No. RCRA-10-2011-0164

DECLARATION OF KATHERINE M. GRIFFITH

Pursuant to 28 U.S.C. § 1746, I, KATHERINE M. GRIFFITH, declare under penalty of perjury that:

1. I base this declaration on my personal knowledge, obtained through personal observation and analysis of documents relevant to this case. In preparing this declaration, I have reviewed the information contained in the facility file maintained by the U.S. Environmental Protection Agency Region 10 (EPA) for Totem Grocery and Gas also

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ATTACHMENT 1

known as Totem Grocery and Deli (Totem Grocery) located at 105 Marine Drive NE, in Marysville, Washington.

2. I am employed as an Environmental Protection Specialist in the Groundwater Unit of the EPA Region 10's Office of Compliance and Enforcement in Seattle, Washington. I have worked for EPA Region 10 in this capacity for over ten years.

3. My duties as an Environmental Protection Specialist include reviewing EPA inspection reports and other documentation to determine whether violations of underground storage tank ("UST") regulations have occurred and developing enforcement cases in those instances where violations of UST regulations have been identified. I have conducted case reviews and have helped to develop multiple UST cases during my employment with EPA.

4. On or about June 2010, I was assigned to develop an enforcement case against Joseph Oh and his company, Holly Investment LLC for UST violations observed at Totem Grocery.

5. As part of my duties as the case developer, I reviewed the EPA enforcement file for Totem Grocery and reviewed the contacts that were made with Mr. Oh, by Carlo Bertani, a former EPA inspector who conducted an inspection of Totem Grocery on September 14, 2009.

6. In reviewing the enforcement file, I noted that Mr. Bertani, who no longer works for EPA, documented messages he left on Mr. Oh's voicemail concerning the UST

violations observed and the field citation penalty hand delivered to John Kim, Mr. Oh's employee, during the September 14, 2009 inspection on November 19, 2009, December 18, 2009, January 14, 2009, and March 11, 2010. See Complainant's Exhibit (CX) 14. The file reflects that Mr. Bertani finally spoke with Mr. Oh about the violations and the field citation penalty on March 23, 2010. CX 14. The file also reflects that Mr. Bertani sent Mr. Oh a certified letter on March 23, 2010, enclosing a copy of the field citation. CX 16. A copy of the field citation provided to Mr. Oh is contained in CX 10.

7. On July 1, 2010, I accompanied another inspector during an inspection of Totem Grocery. During that inspection, Helen Ho stated that she was the operator of Totem Grocery and Joseph Oh was the owner. See inspection report CX 17.

8. On October 4, 2010, I mailed a certified letter to Mr. Oh's home address at 4905 70th Avenue West, University Place, WA 98467. In the letter, I listed the existing violations and the steps required to bring the facility into compliance with the UST regulations. CX 22.

9. On October 14, 2010, I called Mr. Oh and spoke with him about the violations and informed him that I had sent him a certified letter waiting for his signature at the post office. Mr. Oh stated that he would pick up the letter that day and call me if he had any questions. This letter was subsequently returned to EPA by the postal service as unclaimed.

10. On April 8, 2011, EPA mailed a certified letter to Mr. Oh at his home address and sent a copy of the letter by regular first class mail to Arnie Kim, the registered agent for Holly Investment LLC at the same address. This letter contained a list of the violations observed during the September 14, 2009 and July 1, 2010 inspections, a proposed penalty, and an offer to negotiate a settlement of the case prior to filing a complaint.

11. On April 21, 2011, I called Mr. Oh to inform him that the April 8th certified letter was waiting for his signature at the post office. Mr. Oh responded that he did not know of the inspections and that he was not aware that his facility was out of compliance. See CX 23. He requested that I send the letter to him by email. He also requested that I contact Helen Ho. I emailed the April 8, 2011 letter to Mr. Oh on April 21st at josephoh405@gmail.com and there was no indication that the email did not go through. The original certified letter to Mr. Oh was returned to EPA by the postal service as unclaimed. See CX 24. The copy of the August 8th letter sent to Arnie Kim by regular first class mail was not returned.

12. On June 24, 2011, I participated in a conference call with Greg Tift, Hyung Kim, environmental consultant, and the EPA attorney. During that call, we discussed in detail the violations EPA was alleging and the actions needed to correct the violations. A description of that discussion is contained in CX 26. For whatever reason, Mr. Oh opted not to participate in the conference call.

13. On December 16, 2011, I called Mr. Oh. I asked him if he would send any compliance documentation that he may have to assist with an upcoming settlement meeting scheduled for December 20, 2012. Mr. Oh stated that he would prefer that I talk with Mr. Tift and that he would have Mr. Tift call me back. I gave Mr. Oh my telephone number and restated my name. I did not receive a telephone call from Mr. Tift nor did I call Mr. Tift because at that time I did not have his telephone number. The December 20, 2012 settlement meeting was subsequently cancelled.

14. Evidence contained in the file documents that Mr. Oh had personal knowledge of the violations alleged as early as November 2009 and that he was contacted about those violations both by telephone and in writing. He was also provided the opportunity to participate in settlement meetings to discuss the violations, but those settlement meetings were cancelled.

15. My personal observations reflect that Mr. Tift was aware of the violations alleged against Mr. Oh and Holly Investment LLC as early as April 2011.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 9th day of October, 2012



KATHERINE M. GRIFFITH