

8/27/95

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of)	
WEE SERVICE CENTERS, Inc.)	Docket No. II-RCRA-UST-93-0206
Respondent)	

Partial Accelerated Decision on Liability

The complaint in this case, brought pursuant to the Solid Waste Disposal Act, as amended (hereafter "SWDA"), section 9006, 42 U.S.C. §6991e, charges Respondent as the operator of a gasoline service station located in Brooklyn, NY, with violations of the Act and the regulations thereunder pertaining to underground storage tank systems ("UST systems") (40 C.F.R. Part 280).¹

The complaint alleges that there are five UST systems located at the facility. The violations charged against Respondent are that it did not maintain release detection records at the site demonstrating recent compliance with the regulatory requirements or have them readily available at an alternative site for EPA inspection, and that Respondent failed to provide a method or combination of methods of release detection for the UST systems

¹ The complaint also named 1833 Nostrand Avenue Corporation, the owner of the service station, as a respondent. The case against Respondent operator, however, has been severed from the proceeding against the corporate owner. See my order denying partial accelerated decision in Docket No. [UST] II-RCRA-93-0205, et al, issued August 10, 1995.

located there.²

Complainant moves under 40 C.F.R. §22.20, for a partial accelerated decision on liability. Complainant has submitted with its motion documents showing that Respondent is an operator of five UST systems located at the site subject to the regulatory requirements of 40 C.F.R. Part 280, and an affidavit of an EPA inspector, John Hansen, who visited the facility in July 1992, all of which support the violations charged against Respondent.³ Respondent has not responded to the motion, and the factual showing made by Complainant remains uncontroverted and unexplained.

I find, accordingly, as follows:

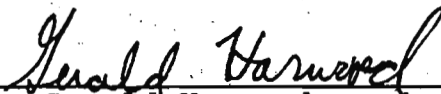
1. Respondent has violated 40 C.F.R. §§ 280.34 and 280.45(b), by failing to maintain records of its compliance with the release detection requirements of 40 C.F.R. Part 280, Subpart D.

2. Respondent has violated 40 C.F.R. §280.41, by failing to comply with the requirements for providing release detection for the five UST systems located at the facility.

² The violations were uncovered in the course of the EPA's investigation during the period from March 1992 to September 1992. See Complaint, Exhibit 1 to EPA's motion.

³ Complainant's Exhibits 4, 6, 7.

Still to be determined is the appropriate penalty for the violations herein found.



Gerald Harwood
Senior Administrative Law Judge

Dated: August 30, 1995.

IN THE MATTER OF WEE SERVICE CENTERS, INC., Respondent
Docket No. II-RCRA-UST-93-0206

Certificate of Service

I certify that the foregoing Order, dated August 30, 1995, was sent this day, August 30, 1995, in the following manner to the addressees listed below.

Original by Regular Mail to:

Ms. Karen Maples
Regional Hearing Clerk
U.S. EPA, Region II
290 Broadway, 17th Floor
New York, NY 10007-1866

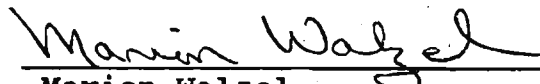
Copy by Regular Mail to:

Attorney for Complainant:

Naomi P. Shapiro, Esquire
Assistant Regional Counsel
Air Waste & Toxic Substances Branch
U.S. EPA, Region II
New York, NY 10007-1866

Attorney for Respondent:

Mr. Eddie Williams
President
Wee Service Centers, Inc.
1244 Utica Avenue
Brooklyn, NY 11203



Marion Walzel
Legal Staff Assistant

Dated: August 30, 1995