

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

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In the Matter of: : Honorable Christine D. Coughlin,
: **Presiding Officer**
ADVANCED RECOVERY, INC :
:
: **Docket Number:**
Respondent : **RCRA-02-2013-7106**
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COMPLAINANT'S REBUTTAL PREHEARING EXCHANGE

Complainant, the Director of the Division of Enforcement and Compliance Assistance ("DECA") of the United States Environmental Protection Agency ("EPA" or "Agency"), Region 2, herewith submits the following Rebuttal Prehearing Exchange pursuant to paragraph 4 of the "Prehearing Order," dated March 10, 2014, as subsequently modified by the Administrative Law Judge's Order Granting Motion to Extend Time, dated April 14, 2014, and by the Administrative Law Judge's Order Granting Complainant's Motion to Extend Time, dated May 21, 2014, pursuant to 40 C.F.R. § 22.19(a).

Statement in response to assertions in Respondent's PHE

Respondent Advanced Recovery, Inc. ("ARI") states in its Prehearing Exchange ("Respondent's PHE"), "Complainant [sic] seeks [sic] \$66,550 for these alleged violations. The Complaint indicated that the 'gravity based penalty matrix' indicated that potential for harm the very highest possible penalty was to be utilized in both of these counts. The Complaint

apparently contends [sic] that for these relatively minor deviations, that the potential for harm is the highest possible on the scale, and at the extent of deviation from regulation is also the highest possible on the scale" (underlining added). (Preliminary Statement in Respondent's PHE paragraph 1 at p. 3). In response Complainant plans to call Mr. Abdool Jabar, Environmental Engineer, to testify as to the seriousness of the conditions, releases and violations he observed to be present during the Inspection at ARI's Port Jervis, NY facility on July 25, 2012, which posed the risk of a fire, explosion or the unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents into the air, soil, or surface water which could threaten human health or the environment. (Complainant's Initial PHE paragraph 1 at p. 2). Mr. Jabar will make clear that, despite Respondent's statement in its PHE (top of p. 3), Count 2 involved more than a failure to label containers and the resulting difficulty in determining the length of the period of storage. In addition, EPA witnesses will testify as to the inaccuracy of ARI's statement that the 'very highest possible penalty was to be utilized in both of these counts...' Mr. Jabar and/or one of the EPA RCRA personnel listed in Complainant's Initial PHE will testify as to the distinction between the RCRA Penalty Policy MAJOR potential for harm and MAJOR extent of deviation under the RCRA penalty calculation for count 1, as opposed to the MODERATE potential for harm and MODERATE extent of deviation used in the penalty calculation for count 2 set forth in the Complaint.

Respondent formally raised the issue of its ability to pay the proposed penalty, in its May 14, 2014, PHE. Respondent indicates that it will rely on its 2011, 2012 and "proposed 2013 tax returns" and other financial documents submitted to demonstrate its assertion that ARI is "in somewhat dire financial circumstances" (Respondent's PHE paragraph 3 at p. 3). Respondent

further states that “its financial hardship should be taken into consideration during the settlement and during the hearing.” (Respondents PHE top paragraph at p.4). To support its position that the penalty should be reduced, the Respondent has included Tax Returns for 2011, 2012 and its proposed unfiled Tax Return for 2013 (Respondent’s Exhibit B). Complainant will rely on Mr. Jabar’s testimony that during the two informal discussions the parties held, on May 19, 2013, and March 18, 2014, Respondent was advised that EPA would require three years of its most recent filed tax returns in order to analyze ARI’s ability to pay the proposed penalty. Mr. Jabar will also testify that Respondent submitted electronically to Complainant ARI’s filed 2011 tax return and its filed 2012 tax return. Mr. Jabar will further testify that after several requests by Complainant requesting that ARI submit either its 2010 filed tax return or its 2013 filed tax return, on March 20, 2014, Respondent submitted electronically to Complainant its unfiled “proposed 2013” tax return and indicated that the return would likely change. A copy of Complainant’s email communications to Respondent’s Counsel requesting that ARI submit its 2013 filed tax return is included as an exhibit (CX-8) hereto.

In addition, in response to Respondent’s intended position to rely on its 2011, 2012 and proposed unfiled 2013 Tax Returns, Complainant will call Gail Coad, a principal in Industrial Economics (“IEc”), located at 2067 Massachusetts Avenue, Cambridge, Massachusetts. IEc is Complainant’s contractor used to conduct ability to pay financial analyses. Ms. Coad is expected to testify as to IEc’s policy with regard to whether it can utilize a “proposed tax return” which has not been filed to do an evaluation and discussion of the financial condition of the Respondent, ARI. Ms. Coad will address financial matters relevant to this proceeding, such as Respondent ARI’s ability to pay the penalty amount being sought by Complainant. EPA is

contemplating moving at hearing to qualify Ms. Coad as an expert witness in financial analysis.

A copy of her resume is included as an exhibit (CX-9) hereto.

Ms. Coad's testimony will be in addition to the testimony of the other Complainant's witnesses (Mr. Abdool Jabar, Mr. John Wilk, Mr. Leonard Grossman and Mr. Leonard Voo) who were identified in Complainant's Initial PHE, wherein a narrative of each of their expected testimony was provided. As previously indicated, Complainant's witnesses, Mr. Jabar, Mr. Wilk, Mr. Grossman and/or Mr. Voo will provide testimony that includes how USEPA's RCRA Penalty Policy supports the amount of the penalty sought by Complainant in this matter.

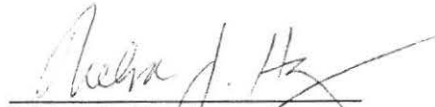
Respondent asserts that "Complainant has informed us that it is unable to waiver from its extreme findings relevant to the gravity matrix (underlining added). Respondent further asserts that...this matter has great potential for settlement if Complainant were to adjust these overly severe findings." (Respondent's PHE second paragraph at p.3). Complainant responds by calling Mr. Jabar to testify as to the severity of the conditions observed at the ARI facility on July 25, 2012 when he conducted the Inspection. He will further testify that EPA could have assessed additional violations against Respondent for violations of RCRA storage and handling requirements. He will also testify to the consideration Complainant gave Respondent with respect to the length of time it was a large quantity generator ("LQG") and Respondent's attitude and cooperation with EPA up until the initiation of this litigation. Mr. Jabar will further testify that during the initial informal settlement conference held on May 19, 2013 that EPA made an offer to settle this matter for a lesser amount than the penalty proposed in the complaint. He will also testify that Respondent did not proffer a counter settlement offer.

Furthermore, in order to respond to Respondent ARI's stated intention to rely on an expert witness (yet to be retained or identified) to testify to "the extent to which ARI deviated from regulations, and the potential of harm arising out of any such deviation" (Respondent's PHE paragraph 4 at p.5), Complainant intends to call the following additional witness:

Maryanne O'Connor, M.S., Environmental Engineer and RCRA Program Manager, New York State Department of Environmental Conservation (NYSDEC) - Region 3, Division of Environmental Remediation, 21 S. Putt Corners Road, New Paltz, NY 12561-1620. A copy of her resume is included as an exhibit (CX-10) hereto. Ms. O'Connor was present during the July 25, 2012 Inspection (along with EPA's Jabar) and will present testimony as to the conditions she observed.

Dated: June 4, 2014
New York, New York

Respectfully submitted,



Melva J. Hayden
Assistant Regional Counsel
Water and General Law Branch and
Waste and Toxic Substances Branch
U.S. Environmental Protection
Agency - Region 2
290 Broadway, 16th floor
New York, New York 10007-1866
212-637-3230
Fax: 212-637-3199
hayden.melva@epa.gov

Hayden, Melva

From: Hayden, Melva
Sent: Thursday, March 20, 2014 1:24 PM
To: Gerald Orseck
Cc: Jabar, Abdool; Voo, Leonard; Sawyer, William
Subject: RE: Advanced Recovery

Dear Mr. Orseck,

EPA cannot use a proposed tax return that has not been filed to do an ability to pay analysis. Please submit the Respondent's 2010 tax return as we discussed. Thank you.

Melva J. Hayden

Melva J. Hayden, Esq.
Assistant Regional Counsel
Region 2 Title VI Coordinator
Office of Regional Counsel
U.S. Environmental Protection Agency - Region 2
290 Broadway - 16th Floor
New York, NY 10007-1866
212.637.3230 - EPA Office (Tues., Wed., Thurs.)
212.637.3202 - EPA Facsimile
718.712.5674 - Alternate Work Location Number (Mon., Fri.)

From: Gerald Orseck [mailto:orsecklaw@yahoo.com]
Sent: Thursday, March 20, 2014 12:53 PM
To: Hayden, Melva
Subject: Advanced Recovery

We attach a copy of Advanced Recovery's proposed 2013 tax returns. We must state that these are not the final returns, and are almost certain their will be some certain degree of change to these numbers before AR's final return is completed. It is likely that AR's accountants will ask for an extension to file for this year. When a finalized return is prepared, and is ready to file, we will forward a copy of that to you immediately. In the meantime, this draft return should give a fairly good example of AR's financial situation for 2013.

Hayden, Melva

From: Hayden, Melva
Sent: Thursday, March 20, 2014 7:09 PM
To: Gerald Orseck
Cc: Jabar, Abdool
Subject: RE: Advanced Recovery

Dear Mr. Orseck,

I am sending this communication before I leave for the day. This is to follow up on my earlier email sent in reply to your email sent today at 12:53 PM submitting to EPA a proposed 2013 tax return to EPA for the ability to pay analysis. This is again to advise you that EPA cannot use unfiled tax returns to do the ability to pay analysis. EPA needs Respondent's 2010 tax return. Or, Respondent can file its 2013 tax return and submit same to EPA for use in the analysis.

EPA cannot submit the documents you've submitted on behalf of your client, Respondent, Advanced Recovery, Inc., to our contractor to begin the ability to pay analysis until we receive the third year of Respondent's tax returns. I also called and left a message with your legal secretary advising her of same.

I will be available at my alternate work location on tomorrow, Fri., Mar. 21, 2014, if you wish to discuss this in further detail. I may be reached at my EPA office number which has been transferred to my telecommuting work location, 212.637.3230, or via cell at 646.321.2380. I will not be in the office on Mon., Mar. 24, 2014.

Sincerely,

Melva J. Hayden

Melva J. Hayden, Esq.
Assistant Regional Counsel
Region 2 Title VI Coordinator
Office of Regional Counsel
U.S. Environmental Protection Agency - Region 2
290 Broadway - 16th Floor
New York, NY 10007-1866
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meantime, this draft return should give a fairly good example of AR's financial situation for 2013.

Hayden, Melva

From: Hayden, Melva
Sent: Wednesday, March 26, 2014 4:56 PM
To: Gerald Orseck
Cc: Jabar, Abdool; Voo, Leonard; Sawyer, William
Subject: RE: Advanced Recovery

Dear Mr. Orseck,

This is my fourth attempt to contact you (via email and message left with your legal assistant on Mar. 20, 2014) and twice today (via this email and earlier via message left with your legal assistant) with regard to the proposed 2013 tax return you submitted to EPA for Respondent. This is to advise you again that EPA cannot accept an unfiled and unsigned tax return for Advanced Recovery which is subject to change. EPA also cannot submit the tax returns for analysis without the three years of most recent tax returns. Please submit either Respondent's 2010 tax return, or the 2013 final tax return filed with IRS as soon as possible. Thank you.

Sincerely,

Melva J. Hayden

Melva J. Hayden, Esq.
Assistant Regional Counsel
Region 2 Title VI Coordinator
Office of Regional Counsel
U.S. Environmental Protection Agency - Region 2
290 Broadway - 16th Floor
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INDUSTRIAL ECONOMICS, INCORPORATED

GAIL B. COAD

Ms. Coad's primary areas of expertise are economic, financial, and policy analysis. In particular, she has conducted analyses of a wide variety of public policies, including homeland security, environmental and natural resource issues. Ms. Coad is well versed in the U.S. government's regulatory and decision-making process, and is experienced in identifying and evaluating policy options. Ms. Coad also has extensive experience analyzing the financial condition of individuals and businesses in the context of regulatory or enforcement actions. As a Principal at Industrial Economics, Incorporated, she directs projects in her areas of expertise and participates in the management of the firm.

Ms. Coad has applied her expertise to a wide variety of issues. Her representative experience includes the following:

- Testifying as an expert witness in federal, state and administrative court, and supporting litigation teams on the economic and financial aspects of numerous environmental noncompliance cases involving air, water, and hazardous waste issues.
- Providing technical litigation case management services, including identification and management of expert witnesses, analysis of discovery materials, and close coordination with case attorneys.
- Assisting the federal government in developing strategies and approaches to assess the ability of businesses, individuals, municipalities and not-for-profit organizations to pay penalties.
- Directing the preparation of regulatory impact analyses for the Customs and Border Protection office of the U.S. Department of Homeland Security related to the land crossing of individuals into the United States, requiring containers imported into the United States are properly sealed and that importers report additional information regarding shipments coming to the United States.

Ms. Coad received her B.A. degree *cum laude* and with Honors in Economics from Connecticut College (1972) and her M.B.A. degree from the Graduate School of Business at Stanford University (1974). Prior to joining IEC, Ms. Coad was Chief of the Commerce and Lands Branch, in the Office of Information and Regulatory Affairs at the U.S. Office of Management and Budget, and Chief of the Economic Analysis Staff in the U.S. Environmental Protection Agency's Office of Water Regulation and Standards. She is a member of the National Association of Business Economists, and an Associate of the Certified Fraud Examiners Association. Ms. Coad also serves as a Director and Secretary of the Educational Community Farm, Wilton, New Hampshire. She is a member of the Church of Our Saviour Vestry, Milford, New Hampshire, and has served a two year term as Treasurer.

Industrial Economics, Incorporated
2067 Massachusetts Avenue
Cambridge, MA 02140 USA
617.354.0074 | 617.354.0463 fax
www.indecon.com

Corporate and Not-for-Profit Financial Analysis

Ms. Coad has extensive experience in analyzing the financial condition of businesses, individuals and not-for-profit organizations such as state or local governments. Ms. Coad has supported numerous U.S. Department of Justice, EPA and state environmental enforcement teams in litigation involving ability to pay and economic benefit issues. She has testified in federal court and administrative hearings, in deposition and prepared declarations and affidavits. Examples of her work in this area are described below.

- Evaluating the financial capability of residential customers of the Jefferson County, Alabama wastewater system to afford partial or full repayment of warrants and indentures assumed to finance major capital improvements required by a 1996 Consent Decree.
- Providing financial and economic analysis support and consultation during the bankruptcy and reorganization of a mining company.
- Evaluating the financial capability of numerous municipalities or municipal types of entities to address Combined Sewer Overflow (CSO), Storm Sewer Overflow (SSO) and other environmental issues associated with wastewater treatment systems.
- Analyzing the ability of a major mining corporation to meet state financial assurance requirements.
- Evaluating the claim of a metals mining corporation for a variance on economic grounds from water quality standards.
- Evaluating the ability of four mining corporations to contribute to clean-up costs at a Superfund site in the Pacific Northwest.
- Assessing the capability of an electrical co-generation plant to pay an environmental penalty to a state regulatory authority.
- Analyzing whether release of certain documentation would cause substantial harm to the competitive position of a company.
- Evaluating factors in a company's financial history that may have contributed to a manufacturing facility's closure.
- Providing expert witness support for federal, state, and local government clients regarding the ability of violators to pay penalties or for Superfund clean-ups.
- Directing a major revision of the EPA's ABEL computer model. This model is designed to evaluate the ability of businesses to pay for environmental expenditures or a penalty. It produces key financial ratios that describe the historical financial condition of the violator, and uses discounted cash flow calculations to estimate the amount of funds available from future operations.
- Directing a revision of ABEL specifically designed for Superfund enforcement staff. This version of ABEL is conducted in pre-tax terms in order to allow a direct comparison of proposed Superfund payments.
- Directing the design, implementation and maintenance of the MUNIPAY model. MUNIPAY assists EPA enforcement personnel in evaluating the financial position of municipalities.

Corporate and Not-for-Profit Financial Analysis (continued)

- Designing approaches for EPA staff to determine appropriate Superfund clean-up payments for large quantities of de minimus Potentially Responsible Parties (PRPs).
- Evaluating financial documents and other evidence to determine whether the corporate veil can be pierced or if the parent corporation exerted control over subsidiaries.
- Revising the Superfund Financial Assessment System, a model used by EPA and Department of Justice staff to determine the amount of funds that publicly-held corporations can pay for Superfund cleanups.
- Establishing a methodology and criteria for evaluating the ability of not-for-profit organizations to pay for pollution control expenditures or for a penalty, based on six to eight case studies covering diverse organizations.
- Preparing guidance to assess the financial capabilities of individuals to help the State of Iowa prioritize claims for assistance in remediating leaking underground storage tanks.
- Developing and presenting a one-day seminar in corporate finance and analysis for members of EPA's Office of Solid Waste. The seminar covered issues such as financial statements, ratio analysis, and discounted cash flow analysis.

Economic Analysis Experience

Ms. Coad's experience in analyzing issues from an economic perspective include the following projects.

- Directing the preparation of regulatory assessments for major rulemakings under consideration by the U.S. Customs and Border Protection Bureau, including documentation required for the land crossing of individuals into the United States, requiring containers imported into the United States are properly sealed and that importers report additional information regarding shipments coming to the United States.
- Testifying as an expert witness in state, federal, and administrative courts regarding the economic benefit that for-profit and not-for-profit entities may have gained through noncompliance with environmental requirements.
- Directing an effort to evaluate the markets for dissolving pulp and lumber products from Southeast Alaska.
- Providing settlement and litigation support regarding economic benefit issues to clients at the U.S. Department of Justice, U.S. Environmental Protection Agency, and state environmental enforcement units.
- Analyzing the market and financial position of a dissolving pulp mill, and assessing the mill's ability to install additional pollution control equipment.
- Maintaining and updating EPA's computer models that support EPA's penalty policy.
- Training EPA regional and headquarters staff, as well as state enforcement personnel, in the use of EPA's various models used by the enforcement program to evaluate economic benefit and ability to pay.

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Economic Analysis Experience (continued)

- Working with EPA pretreatment enforcement staff to ensure that their guidance for a hand-calculated estimate of economic benefit was technically sound and consistent with BEN.
- Directing a study evaluating the U.S. Bureau of Reclamation's approach to pricing and allocating water, particularly for the Central Valley Project in California.
- Analyzing the effect of pension liabilities on a private client's economic decisions to close or reduce the size of specific container manufacturing plants, and assessing the relationship of a major customer's business decisions and strategies to the client's business decisions.
- Analyzing the market for mobile incineration of hazardous wastes, for EPA's Solid Waste and Policy offices. The study examined the current supply of mobile incineration capacity, the likely expansion of capacity over the next year, and the effect of various factors, such as the regulatory environment, on industry growth.

Policy Analysis Experience

At the U. S. Office of Management and Budget (OMB), Ms. Coad instituted major changes in how the government issues regulations. From her experience at OMB and EPA, she has in-depth knowledge of the administrative and analytical procedures necessary to develop sound regulatory initiatives as illustrated by the following activities.

- Organizing the internal OMB process to conduct the central review of government regulations commanded by President Reagan's Executive Order No. 12291 (Federal Regulation), which requires agencies to analyze their regulatory actions using a benefit-cost framework.
- Designing and implementing the President's Executive Order No. 12498 (Regulatory Planning), which instituted an annual budget-like review of agency regulatory activity. The annual Regulatory Program includes about 500 major regulatory actions, and provides early information to the public on regulations that agencies are working on.

At OMB, Ms. Coad was also responsible for annual reviews of several thousand agency requests to collect information. Ms. Coad is an expert in the requirements of the Paperwork Reduction Act, which requires agencies to obtain OMB approval prior to undertaking any information collection. She is also experienced in resolving conflicts between industry and sponsoring federal agencies.

Reports and Publications

Financial Impact of Proposed Rate Increase on Residential Customers of Jefferson County Environmental Services Department, 2011.

Regulatory Assessment of the Western Hemisphere Travel Initiative Implemented in the Land Environment, U.S. Customs and Border Protection, 2008.

Mobile Incineration: An Analysis of the Industry, draft report prepared for the Office of Policy, Planning and Evaluation, and the Office of Solid Waste, U.S. Environmental Protection Agency, June 1989.

Constraining Regulatory Costs: A Budgetary Perspective, authored with Jim J. Tozzi, prepared for Allied Social Sciences Convention, December 28-30, 1981.

Under the direct guidance and supervision of the U.S. EPA, Office of Civil Enforcement various manuals, user guides and computer models used in the penalty setting process, including BEN, ABEL, INDIPAY, MUNIPAY and PROJECT, 1989 to present.

Testimony

United States v. ARG Corporation and Norbert R. Toubes, Civil Action No 10-cv-311 in the United States District Cour for the Northern District of Inidana, South Bend Division. 2013. [Deposition]

In the Matter of Jefferson County, Alabama Debtor, Case No. 11-05736-TBB in the United States Bankruptcy Court for the Northern District of Alabama, Southern Division. 2013. [Deposition and Testimony]

In the Matter of Carbon Injection Systems LLC et al, Docket No. RCRA-05-2011-0009. Syracuse, New York. 2012. [Testimony at Administrative Hearing]

State of Arizona v. Fiesta Canning Company, Inc., Case No. CV2006-003022, Superior Court of the State of Arizona, In and For the County of Maricopa, 2007 and 2010 [Depositions], and 2012. [Trial Testimony]

United States v. The City of Akron, Ohio, and The State of Ohio, Civil Action No. 5:09-cv-00272-JRA, U.S. District Court, Northern District of Ohio, 2011 and 2012. [Testimony]

United States v. Charles Johnson, Francis Vaner Johnson, Genelda Johnson and Johnson Cranberries Limited Partnership, Case No. 99-12465-EFH, U.S. District Court, District of Massachusetts, 2004. [Deposition]

United States v. The City of Los Angeles, Civil Action No. 01-191-RSWL , U.S. District Court, Central District of California - Western Division, 2003 [Deposition]

In the Matter of Lu Vern G. Kienast, and L.G. Kienast Utility Construction Co. Inc., Docket No. CAA-5-201-007. Oshkosh, Wisconsin. 2002. [Testimony at Administrative Hearing]

In the Matter of Energy Gases, Inc., Docket No. EPCRA-02-2000-4002. Syracuse, New York. 2002 [Testimony at Administrative Hearing]

United States v. LTV Steel Company, Inc. U.S. District Court, N.D. Ohio. 2000 [Deposition]

United States v. Conagra. U.S. District Court, Idaho. 1997 [Deposition]

United States v. Plum Creek Manufacturing Company, L.P. U.S. District Court, Montana. 1997 [Deposition]

Pirgim Public Interest Lobby, et al. v. The Dow Chemical Company. U.S. District Court, Eastern District of Michigan, Southern Division. 1996 [Deposition]

United States v. Dewey Wilfong and Harrison Warehouse Company, Incorporated. U.S. District Court, Northern District of West Virginia. 1995 [Trial]

United States v. Marine Shale Processors, Inc., Recycling Park, Inc., and Southern Wood Piedmont Company. U.S. District Court, Western District of Louisiana, Lafayette Division. 1994 [Trial & Deposition]

United States v. EKCO Housewares, Inc. U.S. District Court, District of Ohio, Eastern Division. 1993 [Trial]

United States v. Dext Company of Maryland. U.S. District Court, District of Maryland. 1993 [Deposition]

Massachusetts Water Resources Authority v. A. Allan Rodenheiser and Electric Sewer Company. 1992 [Testimony at Administrative Hearing]

United States v. Production Plated Plastics et al. U.S. District Court, District of Michigan, Southern Division. 1992 [Trial]

United States v. Town of North Adams. U.S. District Court, District of Massachusetts, Western Section. 1991 [Trial]

United States v. Mobil Oil Corporation. U.S. District Court, Eastern District of California, Sacramento Division. 1991 [Deposition]

State of New Jersey v. J.T. Baker Chemical Company. Superior Court of New Jersey, Chancery Division, Warren County. 1989 [Trial & Deposition]

United States v. Vineland Chemical Company et al. U.S. District Court, District of New Jersey. 1989 [Trial & Deposition]

Presentations

"EPA's 1997 Financial Capability Assessment Guidance: Overview and Key Issues," New Jersey Water Environment Association Annual Conference, Atlantic City NJ, May 15, 2014.

MARYANNE O'CONNOR

EXPERIENCE:

NYSDEC, DIVISION OF ENVIRONMENTAL REMEDIATION *New Paltz, NY*
ENVIRONMENTAL ENGINEER II *(July 2006 - Present)*

Manage the Region 3 RCRA program. Develop annual Work Plan and track program performance. Coordinate with Central Office RCRA staff and EPA. Evaluate facility compliance with state and federal hazardous waste regulations. Provide outreach and guidance to the regulated community. Prepare regional enforcement actions as needed. Ensure RCRA Info database and program spreadsheets are current. Assist DMM with permitting and inspections. Supervise program staff and their daily activities. Provide technical and administrative guidance to staff. Manage the administrative responsibilities of the program including time and attendance, training, performance evaluations, FOIL and staff health and safety needs. Communicate with the public in response to complaints, questions and concerns.

NYSDEC, DIVISION OF AIR RESOURCES *New Paltz, NY*
ENVIRONMENTAL ENGINEER I *(September 1997 - December 2000)*
ENVIRONMENTAL ENGINEER II *(December 2000 - July 2006)*

Evaluated existing and proposed industrial processes, stationary installations and incinerators for the purpose of determining compliance with NYS and Federal air pollution rules and regulations. Prepared Title V and State Facility permits, performed inspections, and completed enforcement actions as necessary. Primarily responsible for facilities in Dutchess and Putnam counties. Supervised two Environmental Program Specialists.

SAFETY-KLEEN CORP *West Nyack, NY*
SENIOR ENVIRONMENTAL, HEALTH & SAFETY MANAGER *(October 1994 - September 1997)*

Responsible for the environmental compliance of two Hazardous Waste Transfer Facilities and one Hazardous Waste Storage facility in the NYC area. Provided ongoing training to all facility employees. Reviewed marketing proposals for new lines of business and compared them with 6NYCRR Part 373 Permit regulations. Prepared permit modifications and renewal applications. Monitored state regulations for upcoming rule changes pertaining to the company's interests. Responsible for management and tracking of EHS expenditures. Developed safety and compliance related procedures. Conducted facility audits.

A.T. CROSS *Lincoln, RI*
CORPORATE ENVIRONMENTAL ENGINEER *(September 1992 - July 1993)*

Supervised Environmental Technician. Responsible for Environmental compliance of two facilities with federal, state and local regulations. Coordinated development and implementation of Emergency Response training and on-going team participation. Reviewed project evaluations and new chemical requests for environmental and safety impact.

THE PROCTER & GAMBLE PAPER PRODUCTS COMPANY *Mehoopany, PA*
MANAGER - ENVIRONMENTAL ENGINEERING *(April 1991 - September 1992)*

Managed site hazardous and non-hazardous waste and groundwater monitoring programs. Led site wide Waste Utilization Task Force to reduce the amount of waste generated and increase the percentage beneficially used. Evaluated and inspected outlets for waste disposal, scrap sales and beneficial use programs. Module Safety Leader.

UNITED TECHNOLOGIES CORPORATION, PRATT & WHITNEY *Southington and East Hartford, CT*
SENIOR ENVIRONMENTAL ENGINEER, METHODS ENGINEER, DEVELOPMENT OPERATIONS TRAINEE
(*June 1986 – April 1991*)

Responsible for air and hazardous waste compliance. Worked with CT DEP, consultants and manufacturing departments to obtain operating permits for metal coating processes. Coordinated corrective action programs, hazardous and non-hazardous waste management, minimization, storage and disposal. Implemented office paper recycling at two facilities. Completed eighteen month training program. Planned and performed various process development tasks related to normal operating requirements for heat treat, plating and brazing functions. Area coordinator for removal of Perchloroethylene from shop floor.

EDUCATION:

RENNSELAER POLYTECHNIC INSTITUTE (*Troy, NY*) *MS –Operations Management August 1989*

CLARKSON UNIVERSITY (*Potsdam, NY*) *BS –Chemical Engineering May 1986*

CERTIFICATIONS:

CERTIFIED HAZARDOUS MATERIALS MANAGER *August 1995*

LICENSED PROFESSIONAL ENGINEER, STATE OF NEW YORK *July 1999*

OSHA 1910.120 - 40 HOUR HAZWOPER

REFERENCES AVAILABLE UPON REQUEST

In the Matter of Advanced Recovery, Inc.
Docket No. RCRA-02-2013-7106

CERTIFICATE OF SERVICE

I certify that the foregoing Complainant's Rebuttal Prehearing Exchange and Exhibits have been sent this day to the following addressees listed herein in the manner listed below:

Original and One Copy by Electronic and
Hard Copy by Regular Mail to:

Sybil Anderson
Headquarters Hearing Clerk
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Copy by Electronic and Hard Copy by
Regular Mail to:

Honorable Christine D. Coughlin
Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Copy by Electronic and Hard Copy by
Regular Mail to:

Kirk O. Orseck, Esquire
Orseck Law Offices, PLLC
1924 State Route 52
POB 469
Liberty, NY 12754

Dated: June 5, 2014
New York, NY