

Storage Tank Enforcement: U.S. Environmental Protection Agency and Town of North Hempstead, New York Enter into Consent Agreement



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

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The United States Environmental Protection Agency (“EPA”) and the Town of North Hempstead, New York (“Town”) entered into a January 9th Consent Agreement and Final Order (“CAFO”) addressing alleged violations of the federal Underground Storage Tank (“UST”) regulations. See Docket No. RCRA-02-2018-7501.

The CAFO provides that the Town is an “owner” and “operator” of multiple “USTs” as those terms are defined in Section 9001 of the Resource Conservation and Recovery Act and 40 C.F.R. § 280.12.

The Town’s USTs (or UST Systems) are identified as being located at five different addresses.

EPA is stated to have sent the Town a Resource Conservation and Recovery Act Section 9005 Notice of Violation/Information Request Letter dated June 6, 2012 in order to determine its compliance with the requirements of the Resource Conservation and Recovery Act and 40 C.F.R. Part 280 pertaining to USTs at certain Town facilities. A response was submitted by the Town on July 6, 2012.

The CAFO describes subsequent issuance by EPA of a “Pre-filing Settlement Opportunity for Prospective Civil enforcement Action Concerning Violations of Underground Storage Tanks” addressing alleged violations by Town USTs. The Town responded to EPA’s document and allegedly identified a broader universe of compliance issues.

Subsequent to a meeting between the Town and EPA, a Compliance Plan and Timeline for USTs was submitted (including an update). Further, the parties are stated to have been reviewing the details and discussing the eligibility of various Supplemental Environmental Projects to be included in a settlement.

The CAFO references a review of various information by EPA and states that the federal agency determined alleged violation at four of the Town’s facilities, which include:

- Failure to permanently close a temporarily closed UST
- Failure to monitor tanks for releases every 30 days
- Failure to conduct a line tightness test every 3 years

The Town (as part of the settlement) conducted a site assessment, pursuant to 40 C.F.R. § 280.72, where two USTs were removed at one of the Town’s facilities.

Further, the Town is stated to have installed an Omntec UST release detection system at a Town facility and submitted documentation supporting such installation.

The CAFO assesses a civil penalty of \$49,500. Further, the CAFO requires that the Town implement two Supplemental Environmental Projects which involve:

- Installation of a Centralized Monitoring System
- Requirement that the Town incorporate green infrastructure at one of its facilities by constructing an infiltration basin

[A copy of the CAFO can be downloaded here.](#)