

In addition to the Consent Decree, the Plaintiffs are also filing simultaneously with this Notice of Lodging a Complaint against the Defendant for violations of Section 311(j) of the Clean Water Act ("CWA"), 33 U.S.C. § 1321(j) and Sections 9001 through 9010 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6991-6991k, as amended by the Hazardous and Solid Waste Amendments of 1984; 40 C.F.R. Parts 112 and 280, and Georgia Underground Storage Tank Rules 391-3-.15 *et seq.*,

The Consent Decree provides for the injunctive relief sought by the United States and the State that Plaintiffs submit is necessary to address the Defendant's violations and to protect human health and the environment. The injunctive relief that the Defendant must perform is set forth in Section VI. (Compliance Requirements) of the Consent Decree. The Decree requires that within thirteen months after entry of the Consent Decree the Defendant will certify compliance with all requirements of RCRA and the CWA as they related to Defendant's underground storage tanks, and one above-ground storage tank ("AST").

The Consent Decree also requires that the Defendant implement a Supplemental Environmental Project ("SEP") that provides for advanced technology to improve release detection methods and operations at its service centers. The SEP requires the Defendant to install fully-automated leak detection systems on USTs that exceed the minimum standards under the regulations.

The Consent Decree further requires the Defendant to pay a civil penalty of \$24,000 to be divided evenly between the United States and the State of Georgia. The Consent Decree contains provisions for stipulated penalties for failure to comply with the requirements of the Decree.

Consistent with the United States Department of Justice policy, 28 C.F.R. § 50.7, and as required by 42 U.S.C. § 6973(d), for at least thirty (30) days prior to moving for entry of the proposed Consent Decree, the public will be afforded an opportunity to submit comments on the proposed settlement embodied in the Consent Decree. The United States and State of Georgia will consider and file with the Court any written comments, views, or allegations submitted to the Plaintiffs relating to the proposed settlement. The Plaintiffs may submit written responses to written comments, views or allegations received during the public comment period. The Plaintiffs may withdraw or withhold their consent to the proposed Consent Decree if the comments, views, or allegations concerning the settlement disclose facts or considerations which indicate that the proposed Consent Decree is inappropriate, improper or inadequate.

After considering all comments, views, and allegations received, should the Plaintiffs conclude that the settlement is in the public interest, the Plaintiffs will move the Court to sign and enter the proposed Consent Decree as a final judgment.

Accordingly, the Plaintiffs request that no further action be taken by the Court with respect to this Decree until they so move, or otherwise notify, the Court.

Respectfully submitted,

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FILED IN CLERK'S OFFICE

U.S.D.C. Atlanta

AUG 28 2017

JAMES N. HATTEN, Clerk

By: *[Signature]* Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA, and the)
STATE OF GEORGIA,)
)
Plaintiffs,)
)
)
v.)
)
WOCO PEP OIL, INC.)
)
Defendant.)
)
)
)
)

CIVIL ACTION NO.

-cv-

1:17-CV-3249

CONSENT DECREE

WHEREAS, Plaintiffs, the United States of America, on behalf of the United States Environmental Protection Agency ("EPA"), and the State of Georgia ("State"), have filed a Complaint in this action, concurrently with this Consent Decree, asserting claims against Defendant WOCO PEP OIL, INC. (hereinafter "Defendant" or "Woco Pep"), pursuant to Section 9006 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6991e, Section 311 of the Federal Water Pollution Control Act, commonly known as the Clean Water Act ("CWA"), 33 U.S.C. § 1321, and O.C.G.A. §§ 12-13-6; 12-13-15; & 12-13-19 of the Georgia Underground Storage Tank Act ("GUSTA").

1. WHEREAS, such claims relate to violations of State and federal underground storage tank (“UST”) regulations, codified in the Georgia Underground Storage Tank (“GUST”) Rules at Rule 391-3-15 *et seq.*, and Part 280 of Title 40 of the Code of Federal Regulations (“CFR”), identified at numerous gasoline fueling stations (hereinafter, collectively, the “UST Facilities”) together with regulated tanks and piping (“UST Systems”), owned and operated by Defendant (as listed in Appendix A).

2. WHEREAS such claims also relate to violations of Section 311 of the CWA, 33 U.S.C. § 1321, and its implementing Spill Prevention, Control, and Countermeasure requirements found at 40 C.F.R. Parts 110 and 112, at an aboveground storage tank (“AST”) oil storage and distribution system (“AST System”) owned and operated by Defendant, located at 4129 Guinn Street N.W., Covington, Newton County, Georgia, 30014 (“AST Facility”).

3. WHEREAS, Defendant is a for profit corporation, registered and doing business in the State of Georgia, which at all relevant times was the owner and/or operator of the UST Facilities and the AST Facility that are the subject of the Complaint and this Consent Decree.

4. WHEREAS Defendant does not admit any liability to the United States or the State of Georgia arising out of the violations alleged in the Complaint.

5. WHEREAS the Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and will avoid litigation between the Parties and that this Consent Decree is fair, reasonable, and in the public interest.

6. NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided in Section I below, and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

I. JURISDICTION AND VENUE

7. This Court has jurisdiction over the subject matter of this action and the Parties pursuant to 28 U.S.C. §§ 1331 (federal question), 1345 (United States as plaintiff), 1355 (fine, penalty, or forfeiture), and 1367 (Supplemental jurisdiction), Section 311(b)(7)(E) and (n) of the CWA, 33 U.S.C. § 1321(b)(7)(E) (civil penalties) and 1321(n) (actions arising under 33 U.S.C. § 1321), Section 9006(a)(1) of RCRA, 42 U.S.C. § 6991e(a)(1) (federal enforcement), and over the Parties.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. § 90 (Georgia judicial districts), 28 U.S.C. §§ 1391 (venue generally) and 1395 (fine, penalty or forfeiture), Section 311(b)(7)(E) of the CWA, 33 U.S.C. § 1321(b)(7)(E), and Section 9006e(a)(1) of RCRA, 42 U.S.C. § 6991(a)(1) because the Defendant is located in this district and a substantial part of the events or omissions giving rise to this action occurred in this district.

9. For purposes of this Consent Decree, or any action to enforce this Consent Decree, Defendant consents to the Court's jurisdiction over this Consent Decree and over any such action and over Defendant, and consents to venue in this judicial district.

10. For purposes of this Consent Decree, Defendant agrees that the Complaint states claims upon which relief may be granted pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, and Section 311 of the CWA, 33 U.S.C. § 1321.

II. APPLICABILITY

11. The obligations of this Consent Decree apply to and are binding upon the United States and the State of Georgia, and upon Defendant and any successors, successor affiliates, subsidiaries, assigns, officers, agents or other entities or persons otherwise bound by law.

12. Except as expressly provided in this Paragraph, no transfer of ownership or operation of any UST System or AST System(s) subject to this Consent Decree shall relieve Defendant of its

obligation to ensure that the terms of the Consent Decree are implemented by Defendant. Any transfer of ownership or operation of any UST or AST System(s) subject to this Consent Decree must be conditioned upon the transferee's agreement to allow Defendant access to the UST or AST System(s) so Defendant may continue to undertake the obligations required by this Consent Decree until its termination, or until transfer of ownership or operation of the UST or AST System(s) in accordance with this Paragraph has been satisfied, as provided in a written agreement regarding the transfer of the UST or AST System(s) between the Defendant and the transferee. Any attempt to transfer ownership or operation of any UST or AST System(s) subject to this Consent Decree without complying with this Paragraph constitutes a violation of this Consent Decree, subject to Stipulated Penalties (Section IX). Notwithstanding the provisions of this Paragraph, Defendant shall be released from its obligations under this Consent Decree (except for the obligations to retain records for the period prior to transfer pursuant to Paragraph 73, and to perform the Supplemental Environmental Project set forth in Section VII) provided that:

- a. Any transfer of ownership or operation of any UST or AST System(s) subject to this Consent Decree to any other person shall be conditioned upon the transferee's express written agreement regarding the UST or AST System(s) to specifically assume and undertake the obligations required by this Consent Decree (except for the obligations to retain records prior to transfer pursuant to Paragraph 73, and to perform the Supplemental Environmental Project set forth in Section VII), and that such written agreement between the Defendant and the proposed transferee to assume and undertake the obligations required by this Consent Decree shall be enforceable by the United States and the State of Georgia as a third party beneficiary of such agreement;

- b. At least thirty (30) Days prior to such a transfer (to the extent reasonably possible given the circumstances, but in any event no later than fifteen (15) Days prior to that date), Defendant shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide written notice of the prospective transfer to the Parties, together with a copy of the proposed written agreement regarding the UST or AST System(s), in accordance with Section XV (Notices);
- c. Defendant shall, prior to date of transfer, perform tank tightness testing and line tightness testing per GUST Rule 391-3-15-.07 [40 C.F.R. Part 280, Subpart D], and cathodic protection system testing, per GUST Rule 391-3-15-.06 [40 C.F.R. Part 280, Subpart C], to ensure that there are no leaking components in the UST System(s) to be transferred, and that the corrosion prevention system is providing continuous protection to the UST System(s). To the extent that any component of the UST System(s) is determined to be inadequate, Defendant shall repair, upgrade or permanently close the UST System(s) (or its component(s), as appropriate) in accordance with GUST Rules 391-3-15-.06 and -.11 [40 C.F.R. Part 280, Subparts C and G], including the regulations requiring performance of a site assessment and any necessary corrective action(s);
- d. Where the UST System(s) to be transferred is subject to Section VII (Supplemental Environmental Project), Defendant shall, prior to the date of transfer, complete any upgrade of the release detection systems necessary to allow the successful functioning of an Automatic Tank Gauging system at the facility and shall, as part of the transfer, retain the right to access to the UST System(s) for purposes related to performing the Supplemental Environmental Project until termination of the Consent Decree;

- e. Defendant shall, prior to the date of transfer of any UST System(s), demonstrate that the proposed transferee has secured, before the transfer, financial assurance in accordance GUST Rules 391-3-15-.12 [40 C.F.R. Part 280, Subpart H];
 - f. Defendant shall, prior to the date of transfer, demonstrate that the proposed transferee has satisfied, before the transfer, operator training requirements in accordance with GUST Rule 391-3-15-.16 [40 C.F.R. Part 280, Subpart J] for any UST System(s) to be transferred; and
 - g. Defendant shall, at least fifteen (15) Days prior the date of transfer, submit to the State of Georgia and EPA, in accordance with Section XV (Notices), a certification signed by a responsible corporate officer stating, to the best of Defendant's knowledge and belief, after reasonable inquiry, that Defendant has complied with the transfer requirements of this Paragraph, that there are no continuing releases or threats of releases from the UST system being transferred, that any prior spills have either been remediated or are in the process of remediation, and that such remediation will be completed by Defendant in compliance with applicable regulations and in coordination with GAEPD.
 - h. No later than five (5) business Days after the execution of such transfer agreement, Defendant shall provide an executed copy of the written agreement regarding the UST or AST System to the Parties, in accordance with Section XV (Notices);
13. Defendant shall provide a copy of this Consent Decree to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Consent Decree, as well as to any contractor and subcontractor whose duties include performing Work required under this Consent Decree. Defendant shall condition any such contract upon performance of the Work in conformity with the terms of this Consent Decree.

14. Notwithstanding any retention of contractors, subcontractors, or agents to perform or monitor any Work required under this Consent Decree, Defendant shall be responsible for ensuring that all Work is performed in accordance with the requirements of this Consent Decree. In any action to enforce this Consent Decree, Defendant shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

III. OBJECTIVES

15. The purposes of the United States, the State of Georgia, and Defendant in entering into this Consent Decree are:

- a. To resolve all pending claims as set forth in the underlying Complaint according to the terms and subject to the reservations set forth herein, without admission of fact or liability or the necessity of further litigation;
- b. To ensure that Defendant complies with the applicable requirements of the CWA, RCRA and GUSTA, and all applicable implementing regulations under the foregoing statutes, as further described in Sections VI (Compliance Requirements) and VIII (Reporting Requirements);
- c. To perform a Supplemental Environmental Project, as further described in Section VII; and
- d. To provide for the payment of a civil penalty by Defendant.

IV. DEFINITIONS

16. Terms used in this Consent Decree that are defined in the CWA, RCRA and GUSTA, or the applicable implementing regulations shall have the meanings assigned to them in the statutes or implementing regulations (at 40 C.F.R. Parts 110, 112 and 280, and GUST Rules 391-3-15 *et*

seq.), unless otherwise provided in this Consent Decree. Whenever the terms set forth below are used in this Consent Decree or any attachments hereto, the following definitions shall apply:

- a. "AST Facility" shall mean the oil storage and distribution facility owned and operated by Woco Pep, located at 4129 Guinn Street N.W., Covington, Newton County, Georgia, 30014, together with the AST System located thereat;
- b. "AST System" shall mean any oil storage and distribution buildings, structures, installations, equipment, pipe, or pipelines located at the AST Facility.
- c. "Complaint" shall mean the complaint filed by the United States and the State of Georgia in this action;
- d. "Consent Decree" shall mean this Consent Decree and all appendices or attachments hereto, and all modifications. In the event of a conflict between this Consent Decree and any appendix or attachment, this Consent Decree shall control;
- e. "Date of Lodging" shall mean the date on which this Consent Decree is filed with the Court, as recorded on the Court's docket;
- f. "Day" shall mean a calendar day unless expressly stated to be a business day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal or State holiday, the period shall run until the close of business of the next business day.
- g. "Defendant" shall mean Woco Pep Oil, Inc.
- h. "EPA" shall mean the United States Environmental Protection Agency and any of its successor departments or agencies;
- i. "Effective Date" shall have the definition provided in Section XVI (Effective Date);

- j. "GAEPD" shall mean the Georgia Environmental Protection Division and any of its successor departments or agencies;
- k. "Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral;
- l. "Parties" shall mean the United States, the State of Georgia, and Defendant;
- m. "Section" shall mean a portion of this Consent Decree identified by a Roman numeral;
- n. "State" shall mean the State of Georgia, its agencies, departments, and instrumentalities, including the Georgia Environmental Protection Division ("GAEPD");
- o. "UST Facility" or "UST Facilities" shall mean the retail gasoline service stations containing UST Systems listed in Appendix A;
- p. "UST System" or "UST Systems" shall mean any tank, underground connected piping, underground ancillary equipment, and any containment system, located at a UST Facility listed in Appendix A.
- q. "United States" shall mean the United States of America, its agencies, departments, and instrumentalities, including the United States Environmental Protection Agency;
- r. "Work" shall mean all activities Defendant is required to perform under this Consent Decree, or any attachment hereto, including, but not limited to, the obligations set forth in Section VI (Compliance Requirements), Section VII (Supplemental Environmental Projects) and Section VIII (Reporting Requirements).

V. CIVIL PENALTY

17. Within thirty (30) Days after the Effective Date, Defendant shall pay a civil penalty of TWELVE THOUSAND DOLLARS (\$12,000) to the United States in settlement of the claims specifically set forth in the Complaint in this matter. Payment of this civil penalty shall be made by certified check, cashier's check, EFT or wire transfer to the U.S. Department of Justice, referencing DOJ file number 90-7-1-10401, in accordance with instructions to be provided by the Financial Litigation Unit of the U.S. Attorney's Office for the Northern District of Georgia to Settling Defendants. Notice that such payment has been made shall be sent on the same day by electronic mail to: acctreceivable.CINWD@epa.gov; and by U.S. mail to: (1) EPA Region 4, RCR Division, Chief, Enforcement and Compliance Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303; and (2) the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044 (re: DOJ File No. 90-7-1-10141). The notice shall reference the USAO Number listed above, the case name, court, and docket number.

18. Within thirty (30) Days after the Effective Date, Defendant shall pay a civil penalty of TWELVE THOUSAND DOLLARS (\$12,000) to the State of Georgia in settlement of the claims specifically set forth in the Complaint in this matter. Payment to GAEPD shall be made within thirty (30) days of the Effective Date of this Consent Decree and shall be made by a cashier's check or money order sent to:

Office of the Attorney General
State of Georgia
Attn: Timothy J. Ritzka
Senior Assistant Attorney General
40 Capital Square SW
Atlanta, Georgia 30084-2583

The instrument shall be made payable to the **Georgia Environmental Protection Division**. The transmittal letter shall state that the payment is for a civil penalty owed pursuant to the Consent Decree in this matter, and shall reference the court and docket number.

19. This Consent Decree shall be considered an enforceable judgment for the purposes of post-judgment collection in accordance with Rule 69 of the Federal Rules of Civil Procedure and the Federal Debt Collection Procedures Act (“FDCPA”), 28 U.S.C. §§ 3001 et seq. All payments required under this Consent Decree shall be considered a debt under the FDCPA.

20. The civil penalty required under this Section, and any stipulated penalties provided for in Section IX are penalties within the meaning of 26 U.S.C. § 162(f), and are not tax deductible expenditures for purposes of federal law.

VI. COMPLIANCE REQUIREMENTS

21. Within thirty (30) Days after the end of the first calendar year after the Effective Date of this Consent Decree, Defendant shall certify compliance with all requirements of RCRA and GUSTA, the GUST Rules and 40 C.F.R. Part 280, and all requirements of the CWA and 40 C.F.R. Parts 110 and 112, as applicable, alleged to have been violated with respect to all UST and AST Systems subject to this Consent Decree. Under the CWA, these requirements include, without limitation, Defendant’s legal obligations to adequately prepare and implement an SPCC Plan for the AST Facility. Under RCRA and GUSTA, these requirements include, without limitation, Defendant’s legal obligation to: (a) report, investigate and confirm suspected releases from UST Systems, per GUST Rule 391-3-15-.08 [40 C.F.R. Part 280, Subpart F]; (b) operate and maintain release detection equipment for UST Systems, per GUST Rule 391-3-15-.07 [40 C.F.R. Part 280, Subpart D]; (c) operate and maintain release detection equipment for UST Systems in temporary closure that are not “empty,” and permanently close UST Systems after

twelve (12) months out-of-service, per GUST Rule 391-3-15-.11 [40 C.F.R. Part 280, Subpart G]; (d) operate and maintain cathodic protection equipment, per GUST Rule 391-3-15-.06 [40 C.F.R. Part 280, Subpart C]; (e) operate and maintain properly calibrated and installed overfill prevention equipment per GUST Rule 391-3-15-.05 [40 C.F.R. Part 280, Subpart B]; and (f) maintain records of release detection records, automatic line leak detector equipment operation and maintenance records, cathodic protection operation and maintenance records, and repair records, per GUST Rule 391-3-15-.06 [40 C.F.R. Part 280, Subpart C]; Day. The written certification required by this Paragraph shall be delivered to EPA and GAEPD in accordance with Section XV (Notices), and shall state as follows:

“Except with regard to any exceptions described below, Woco Pep certifies that, to the best of its knowledge and belief after reasonable inquiry, it is currently in compliance with the Compliance Requirements specified in Section VI of the Consent Decree entered in the matter of the US vs. Woco Pep Oil, Inc., DOJ file number 90-7-1-10401”

22. Defendant shall, within ninety (90) Days of the Effective Date, complete permanent UST closure activities at the Hot Spot facility (Tanks 1 and 2) and the TDS Auto Repair facility (Tanks 1, 2 and 3) (addresses provided in Appendix A), in accordance with the UST closure notification submitted by Defendant, by preparing and submitting UST closure reports to EPA and GAEPD for approval.

23. Defendant shall, for every USTs System subject to this Consent Decree, following every second consecutive “inconclusive” release detection monitoring result returned (as defined in EPA and GAEPD guidance), report the suspected release within twenty-four (24) hours to GAEPD, and follow all applicable EPA and GAEPD guidance including, but not limited to,

GAEPD's guidance titled "Compliance Guidance for Statistical Inventory Reconciliation" (rev. July 1997) and "Suspected Release Site Check Report" (rev. May 2016), attached hereto as Appendix E.

24. Defendant shall, for every UST System subject to this Consent Decree, within thirty (30) Days after the end of each calendar quarter (i.e., by April 30, July 30, October 30, and January 30) after the Effective Date of this Consent Decree, and for one (1) year after the Effective Date, provide a copy of all compliance records (release detection, corrosion prevention, overfill and spill prevention, training, etc.) generated in the preceding calendar quarter to GAEPD, in accordance with Section XV (Notices).

25. This Consent Decree in no way relieves Defendant of its responsibility to comply with all applicable federal, State, and/or local laws, regulations, and/or permits. Compliance with this Consent Decree shall not constitute a defense to any action pursuant to said laws, regulations, or permits.

26. Permits. If any compliance obligation under this Section requires Defendant to obtain a federal, State, or local permit or approval, Defendant shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. Defendant may seek relief under the provisions of Section X (Force Majeure) for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if Defendant has submitted timely and complete applications and has taken all other actions necessary to obtain all such permits or approvals. This Consent Decree is not, and shall not be construed to be, a permit issued pursuant to any federal, State, or local statute or regulation.

VII. SUPPLEMENTAL ENVIRONMENTAL PROJECT

27. Defendant shall implement a Supplemental Environmental Project (“SEP”), requiring the installation of automatic tank gauge (“ATG”) systems at all UST Facilities listed in Appendix B, in accordance with all provisions of this Consent Decree, including but not limited to those set forth in this Section and Appendix C.

28. The SEP requires the installation of all ATG system components (e.g., probes, consoles, wiring, and ATG software), in accordance with Appendix C, necessary to ensure the commencement of operation of automatic release detection monitoring of the UST Systems at the UST Facilities identified in Appendix B.

29. The deadline for completion of installation of this SEP is six (6) months after the Effective Date.

30. The ATG system that Defendant installs shall contain both audible and visible alarms, capable of alerting facility personnel of any alarm conditions detected. The ATG system shall record and maintain that alarm data as well as system testing data. All alarms and testing data shall be retained at a data center or other centralized location and be accessible electronically via remote servers or at each UST Facility for a period of two (2) years.

31. Defendant shall operate and maintain in good working condition the ATG system at the UST Facilities listed in Appendix B for a minimum of three (3) years from the commencement of operation, starting no later than six (6) months after the Effective Date.

32. Defendant is responsible for the satisfactory completion of the SEP in accordance with the requirements of this Consent Decree. Defendant may use contractors or subcontractors in planning and implementing the SEP.

33. With regard to the SEP, Defendant certifies as to the truth and accuracy of each of the following: (a) that to the best of its knowledge and belief after reasonable inquiry, all cost

information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that Defendant in good faith estimates that the cost to install the ATG system at the UST Facilities listed in Appendix B is approximately \$144,818.00; (b) that, as of the date of executing this Consent Decree, Defendant is not required to perform or develop the SEP by any federal, State, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum; (c) that the SEP is not a project that Defendant was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Consent Decree; (d) that Defendant is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activities described in the SEP; (e) that to the best of Defendant's knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activities described in the SEP, nor have the same activities been described in an unsuccessful federal financial assistance transaction proposal submitted to the EPA within two (2) years of the Effective Date of this Consent Decree (unless the project was barred from funding as statutorily ineligible); and (f) that Defendant will not receive any reimbursement for any portion of the SEP from any other person.

34. SEP Installation Completion Report. Within thirty (30) Days after the deadline for completion of installation of the ATG system for the SEP, Defendant shall submit a report ("SEP Installation Completion Report") to the EPA and GAEPD in accordance with Section XV (Notices). The SEP Installation Completion Report shall contain the following information:

- a. A detailed description of the installation of ATG system equipment for the SEP;
- b. A description of any problems encountered in installing the ATG system equipment for the SEP and the solutions thereto;

- c. An itemized list of all eligible SEP costs expended;
- d. A certification that the ATG system equipment for the SEP has been fully installed and is fully operational, pursuant to the provisions of this Consent Decree; and
- e. A description of the environmental and public health benefits that are expected to result from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).

35. After receiving the SEP Installation Completion Report, the EPA, after consultation with GAEPD, will notify Defendant whether or not Defendant has satisfactorily completed the SEP. If Defendant has not completed the SEP in accordance with this Consent Decree, stipulated penalties may be assessed under Section IX (Stipulated Penalties), after the EPA has given Defendant one opportunity to cure any deficiencies.

36. Disputes concerning the satisfactory performance of the SEP and the amount of eligible SEP costs may be resolved under Section XI (Dispute Resolution).

37. The SEP Installation Completion Report required under this Section shall be signed by a responsible corporate officer with knowledge of the SEP, and shall include the certification language set forth in Paragraph 42.

38. Any public statement, oral or written, in print, film, or other media, made by Defendant making reference to the SEP under this Consent Decree shall include the following language:

“This project was undertaken in connection with the settlement of an enforcement action, taken on behalf of the U.S. Environmental Protection Agency and the Georgia Environmental Protection Division under the Resource Conservation and Recovery Act and the Georgia Underground Storage Tank Act.”

39. For federal income tax purposes, Defendant agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

VIII. REPORTING REQUIREMENTS

40. Defendant shall submit the following reports in to the EPA, and GAEPD, in accordance with Section XV (Notices):

- a. Annual Report: Within thirty (30) Days after the end of each calendar year (i.e., by January 30) after lodging of this Consent Decree, and for one year following the Effective Date, Defendant shall submit a report for the preceding year (“Annual Report”) that shall include descriptive information regarding: (i) problems encountered or anticipated, together with implemented or proposed solutions; (ii) status of any permit applications relevant to the implementation of this Consent Decree; (iii) a discussion of Defendant’s progress in satisfying its obligations in connection with this Consent Decree including, at a minimum, a narrative description of activities undertaken, status of any construction or compliance measures, and a summary of costs incurred since the previous report. The Annual Report shall also include a copy of all release detection monitoring results generated, and copies of paid invoice for equipment repaired, installed, at the UST Facilities during the annual reporting period. Defendant may include the certification and compliance records required under Paragraphs 21 and 24, and the SEP Installation Completion Report required under Paragraph 34, along with the Annual Report required by this Paragraph, if appropriate.
- b. If Defendant violates, or has reason to believe that it may violate, any requirement of this Consent Decree, Defendant shall notify the EPA and GAEPD of such violation

and its likely duration, in writing, within ten (10) Days of the Day Defendant first becomes aware of the violation, with an initial report explaining the violation's likely cause and the remedial steps taken, or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the report is due, Defendant shall so state in the report. Defendant shall investigate the cause of the violation and shall then submit an amendment to the report, including a full explanation of the cause of the violation, within thirty (30) Days of the Day Defendant becomes aware of the cause of the violation. Nothing in this Paragraph or the following Paragraph relieves Defendant of its obligation to provide the notice required by Section X (Force Majeure).

41. Whenever any violation of this Consent Decree or any other event affecting Defendant's performance under this Consent Decree may pose an immediate threat to the public health or welfare or the environment, Defendant shall notify the EPA and GAEPD orally or by electronic mail as soon as possible, but no later than twenty-four (24) hours after Defendant first knew of the violation or event. Defendant shall also notify the EPA and GAEPD in writing in accordance with Section XV (Notices). This procedure is in addition to the requirements set forth in the preceding Paragraph.

42. Each report submitted by Defendant under this Section shall be signed by responsible corporate officer and include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who

manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

43. The reporting requirements of this Consent Decree do not relieve Defendant of any reporting obligations required by the CWA, RCRA, GUSTA, or by any other federal, State, or local law, regulation, permit, or other requirement.

44. Any information provided pursuant to this Consent Decree may be used by the United States or the State of Georgia in any proceeding to enforce the provisions of this Consent Decree and as otherwise permitted by law.

IX. STIPULATED PENALTIES

45. Defendant shall be liable for stipulated penalties to the United States and the State of Georgia for violations of this Consent Decree as specified below, unless excused under Section X (Force Majeure). A violation includes failing to perform any obligation required by the terms of this Consent Decree, including any report or record submittal, according to all applicable requirements of this Consent Decree and within the specified time schedules established by or approved under this Consent Decree.

46. Stipulated Penalty for Late Payment of Civil Penalty. In the event any payment required by Section V (Civil Penalty) or Section IX (Stipulated Penalties) is not received when due, interest shall accrue on the unpaid balance throughout the date of payment. Interest shall accrue

in accordance with 28 U.S.C. 1961 or 33 U.S.C. 2705 on any amount overdue. If interest is due, Defendant shall submit a statement with the payment to the Financial Litigation Unit of the United States Attorney's Office for the Northern District of Georgia setting forth the calculation of interest due. Personnel from the United States Attorney's Office, Financial Litigation Unit, will advise Defendant in the event such calculation requires adjustment.

47. Compliance Milestones:

- a. The following stipulated penalties shall accrue per violation per Day per UST or AST System, for each violation of the requirements referenced in Section VI (Compliance Requirements), Section VII (Supplemental Environmental Project), and Section VIII (Reporting Requirements):

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$750.00	1st through 14th Day
\$1,500.00	15th through 30th Day
\$2,500.00	31st Day and beyond

- b. If Defendant fails to satisfactorily install and implement the SEP in accordance with the requirements of this Consent Decree by the deadlines set forth in Section VII (Supplemental Environmental Project), or if Defendant halts or abandons work on the SEP at an earlier date, then Defendant shall pay a stipulated penalty of \$144,818.00, minus any eligible SEP costs approved by the EPA. The penalty under this subparagraph shall accrue as of the date Defendant fails to meet either SEP installation deadline.

48. Defendant shall pay any stipulated penalty within thirty (30) Days of receiving the United States' written demand unless Defendant has invoked and is complying with the procedures of Section X (Dispute Resolution).

49. The United States and/or the State of Georgia may, in the unreviewable exercise of their respective discretion, reduce or waive stipulated penalties otherwise due under this Consent Decree.

50. Stipulated penalties shall continue to accrue during any Dispute Resolution period, but need not be paid until the following:

- a. If the dispute is resolved by agreement or by a decision of the United States that is not appealed to the Court, Defendant shall pay accrued penalties determined to be owing, together with interest, to the United States within thirty (30) Days of the effective date of the agreement or the receipt of the United States' decision or order.
- b. If the dispute is appealed to the Court and the United States prevails in whole or in part, Defendant shall pay all accrued penalties determined by the Court to be owing, together with interest, within sixty (60) Days of receiving the Court's decision or order, except, however, that if any Party appeals the District Court's decision, Defendant shall pay all accrued penalties determined to be owing, together with interest, within fifteen (15) Days of receiving the final appellate court decision.

51. Defendant shall pay stipulated penalties owing to the United States in the manner set forth and with the confirmation notices required by Section XV (Notices), except that the

transmittal letter shall state that the payment is for stipulated penalties and shall state for which violations) the penalties are being paid.

Nothing in this Section shall be construed to limit the United States or the State of Georgia from seeking any remedy otherwise provided by law for Defendant's failure to pay any stipulated penalties.

52. Subject to the provisions of Section XIII (Effect of Settlement/Reservation of Rights), the stipulated penalties provided for in this Consent Decree shall be in addition to any other rights, remedies, or sanctions available to the United States or the State of Georgia for Defendant's violation of any requirement of this Consent Decree or applicable law.

X. FORCE MAJEURE

53. "Force majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of Defendant, of any entity controlled by Defendant, or of Defendant's contractors, that delays or prevents the performance of any obligation under this Consent Decree despite Defendant's best efforts to fulfill the obligation. The requirement that Defendant exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any such event as it is occurring and after it has occurred to prevent or minimize any resulting delay to the greatest extent possible. "Force Majeure" does not include: (a) Defendant's financial inability to perform any obligation under this Consent Decree; or (b) the failure of any lessee, sublessee, or assignee under a lease or sublease, any entity controlled by the lessee, sublessee, or assignee, or the lessee, sublessee, or assignee's contractors, to perform the obligations required under this Consent Decree or any statute or regulation.

54. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, Defendant shall provide notice to the EPA and GAEPD by electronic mail within 72 hours of when Defendant first knew or reasonably should have known that the event might cause a delay. Within seven (7) Days thereafter, Defendant shall provide in writing to the EPA and GAEPD an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Defendant's rationale for attributing such delay to a force majeure event if it intends to assert such a claim; and a statement as to whether, in the opinion of Defendant, such event may cause or contribute to an endangerment to public health, welfare or the environment. Defendant shall include with any notice all available documentation supporting the claim that the delay was attributable to a force majeure.

55. Failure to comply with the above requirements shall preclude Defendant from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Defendant shall be deemed to know of any circumstance of which Defendant, any entity controlled by Defendant, or Defendant's contractors knew or should have known based on the totality of the circumstances.

56. If the EPA, in consultation with GAEPD, agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by the EPA for such time as is necessary to complete those obligations. Defendant shall not be liable for stipulated penalties for any such period of delay. An extension of the time for performance of the

obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. The EPA will notify Defendant in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

57. If the EPA, in consultation with GAEPD, does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, the EPA will notify Defendant in writing of its decision.

58. If Defendant elects to invoke the dispute resolution procedures set forth in Section XI (Dispute Resolution), it shall do so no later than twenty (20) Days after receipt of the EPA's notice pursuant to the preceding Paragraph. In any such proceeding, Defendant shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid or mitigate the effects of the delay, and that Defendant complied with the requirements of this Section. If Defendant carries this burden, the delay at issue shall be deemed not to be a violation by Defendant of the affected obligation of this Consent Decree.

XI. DISPUTE RESOLUTION

59. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. The provisions in this Section shall not apply to actions by the United States or the State of Georgia to enforce the obligations of Defendant that have not been disputed in accordance with this Section.

60. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this Consent Decree shall be identified within twenty (20) Days and shall first be the subject of informal dispute resolution negotiations. The dispute shall be considered to have arisen when Defendant sends the United States and the State of Georgia a written Notice of Dispute, in accordance with Section XV (Notices). Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed thirty (30) Days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States, in consultation with the State of Georgia, shall be considered binding unless, within twenty (20) Days after the conclusion of the informal negotiations period, Defendant invokes formal dispute resolution procedures as set forth below.

61. Formal Dispute Resolution. Defendant shall invoke formal dispute resolution procedures, within the twenty (20) Day time period provided in the preceding Paragraph, by serving on the United States and the State of Georgia, in accordance with Section XV (Notices), a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Defendant's position and any supporting documentation relied upon by Defendant.

62. The United States, after consultation with the State of Georgia, will serve its Statement of Position within forty-five (45) Days of receipt of Defendant's Statement of Position. The United States' Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting its position and any supporting documentation relied upon by the United States. The United States' Statement of Position shall be binding on Defendant, unless Defendant files a motion for judicial review of the dispute in accordance with the following Paragraph.

63. Defendant may seek judicial review of the dispute by filing with the Court and serving on the United States and the State of Georgia, in accordance with Section XV (Notices), a motion requesting judicial resolution of the dispute. The motion must be filed within fifteen (15) Days of receipt of the United States' Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of Defendant's position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree.

64. The United States, in consultation with the State of Georgia, may respond to Defendant's motion within the time period allowed by the Local Rules of this Court. Defendant may file a reply memorandum, to the extent permitted by the Local Rules.

65. Standard of Review: Except as otherwise provided in this Consent Decree, in any dispute brought under Formal Dispute Resolution, Defendant shall have the burden of demonstrating, based on the administrative record, that the position of the United States is arbitrary and capricious or otherwise not in accordance with law. An administrative record of the dispute shall be maintained by the EPA. The administrative record shall include the information considered or relied upon by the United States or the State of Georgia in making the agencies' final decision.

66. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Defendant under this Consent Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first Day of noncompliance, but payment shall be stayed pending resolution of the dispute. If Defendant does not prevail on the disputed

issue, stipulated penalties shall be assessed and paid as provided in Section IX (Stipulated Penalties).

XII. ACCESS, INFORMATION COLLECTION AND RETENTION

67. To the extent Defendant has the legal authority to provide such access, the EPA and GAEPD and their representatives, including attorneys, contractors, and consultants, shall have the right of entry into any Facility, at all reasonable times, upon presentation of credentials, to:

- a. monitor the progress of activities required under this Consent Decree;
- b. verify any data or information submitted to the United States or the State of Georgia in accordance with the terms of this Consent Decree;
- c. obtain samples and, upon request, splits of any samples taken by Defendant or its representatives, contractors, or consultants;
- d. obtain documentary evidence, including photographs and similar data; and
- e. assess Defendant's compliance with this Consent Decree.

68. Upon request, Defendant shall provide the EPA and/or GAEPD or their authorized representatives splits of any samples taken by Defendant. Upon request, the EPA and GAEPD shall provide Defendant splits of any samples taken by the EPA.

69. Until two (2) years after the termination of this Consent Decree, Defendant shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Defendant's performance of its obligations under this Consent Decree. This information-retention

requirement shall apply regardless of any contrary corporate or institutional policies or procedures.

70. At any time during this information-retention period, upon request by the United States or the State of Georgia, Defendant shall provide copies of any documents, records, or other information required to be maintained under this Section. At the conclusion of the information-retention period provided in the preceding Paragraph, Defendant shall notify the United States and the State of Georgia at least ninety (90) Days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the United States and/or the State of Georgia, Defendant shall deliver any such documents, records, or other information to the EPA.

71. Privileged and Protected Claims. Defendant may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege recognized by federal law. If Defendant asserts such a privilege, it shall provide the following: (a) the title of the document, record, or information; (b) the date of the document, record, or information; (c) the name and title of each author of the document, record, or information; (d) the name and title of each addressee and recipient; (e) a description of the subject of the document, record, or information; and (f) the privilege asserted by Defendant. However, no final versions of any documents, records, or other information created or generated pursuant to the requirements of this Consent Decree shall be withheld on grounds of privilege. This shall include, but is not limited to, documents Defendant is required to provide to the United States and the State of Georgia pursuant to Section XV (Notices).

72. Business Confidential Claims. Defendant may also assert that information required to be provided under this Section is protected as Confidential Business Information (“CBI”) under 40

C.F.R. Part 2. As to any information that Defendant seeks to protect as CBI, Defendant shall follow the procedures set forth in 40 C.F.R. Part 2, including but not limited to, providing sufficient documentation to satisfy the requirements of 40 C.F.R. § 2.204(e)(4).

73. This Consent Decree in no way limits or affects any right of entry pursuant to applicable federal or State laws, regulations, or permits, nor does it limit or affect any duty or obligation of Defendant to maintain documents, records, or other information imposed by applicable federal or State laws, regulations, or permits. The EPA and GAEPD retain all of their information gathering and inspection authorities and rights, including enforcement actions related thereto, under RCRA, the CWA, and GUSTA, and any other applicable statutes and regulations.

XIII. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

74. This Consent Decree resolves the civil claims of the United States and the State of Georgia for the violations alleged in the Complaint filed in this action through the date of lodging, conditioned upon the full payment of all penalties (including stipulated penalties) and any interest accrued, the satisfactory performance of the Compliance Requirements (as set forth in Section VI), the SEP (as set forth in Section VII), the Reporting Requirements (as set forth in Section VIII) and the accuracy of the certifications and reporting requirements under this Consent Decree.

75. The United States and the State of Georgia reserve all statutory and regulatory powers, authority, rights and remedies, both legal and equitable, available to enforce the provisions of this Consent Decree. This Consent Decree shall not be construed to limit the rights of the United States or the State of Georgia to obtain penalties or injunctive relief under the CWA, RCRA, GUSTA or implementing regulations, or under other federal or State laws, regulations, or permit conditions. The United States and the State of Georgia further reserve all legal and equitable

remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, any Facility owned and/or operated by Defendant, whether related to the violations addressed in this Consent Decree or otherwise.

76. In any subsequent administrative or judicial proceeding initiated by the United States or the State of Georgia for injunctive relief, civil penalties, other appropriate relief relating to the Facilities or Defendant's alleged violations, Defendant shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States or the State in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to Paragraph 76.

77. This Consent Decree is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Defendant is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits; and Defendant's compliance with this Consent Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The United States and the State do not, by their consent to the entry of this Consent Decree, warrant or aver in any manner that Defendant's compliance with any aspect of this Consent Decree will result in compliance with provisions of the CWA, RCRA, GUSTA, 40 C.F.R. Parts 110, 112 and 280, the GUST Rules, or with any other provisions of federal, State, or local laws, regulations, or permits.

78. This Consent Decree does not limit or affect the rights of Defendant or of the United States or the State of Georgia against any third parties, not party to this Consent Decree, nor does

it limit the rights of third parties, not party to this Consent Decree, against Defendant, except as otherwise provided by law.

79. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

XIV. COSTS

80. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by Defendant.

XV. NOTICES

81. Unless otherwise specified herein, whenever notifications, submissions, or communications are required by this Consent Decree to be sent by one Party to another, they shall be made in writing, signed by a responsible corporate officer, include the following caption, and be addressed as follows:

As to the United States: Emily Shingler
Assistant United States Attorney
United States Attorney's Office
Northern District of Georgia
75 Spring Street, SW, Suite 600
Atlanta, GA 30303

As to the EPA: William E. Truman
Chief, UST, OPA and PCB Section
U.S. Environmental Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

As to GAEPD: Richard Strickfaden

Program Manager I
Atlanta Tradeport, Suite 104
4244 International Parkway
Atlanta, Georgia 30354

As to Defendant: Ellis P. Campbell, President
Woco Pep Oil, Inc.
4129 Guinn St., NW
Covington, Georgia 30014

82. Any Party may, by written notice to the other Party, change its designated notice recipient or notice address provided above.

83. Notices submitted pursuant to this Section shall be deemed submitted upon receipt, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing. Notices shall be sent by first class U.S. mail, certified or registered mail, by Federal Express or equivalent overnight service, or by e-mail.

84. Written notice as specified in this Section shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, the State of Georgia, and Defendant.

XVI. EFFECTIVE DATE

85. The Effective Date shall be the date upon which this Consent Decree is entered by the Court or a motion to enter the Consent Decree is granted, whichever occurs first, as recorded on the Court's docket.

XVII. RETENTION OF JURISDICTION

86. The Court shall retain jurisdiction over this case until termination of this Consent Decree, for the purpose of resolving disputes arising under this Consent Decree or entering orders

modifying this Consent Decree, pursuant to Sections XI (Dispute Resolution) and XVIII (Modification), or effectuating or enforcing compliance with the terms of this Consent Decree.

XVIII. MODIFICATION

87. The terms of this Consent Decree, including any attached appendices, may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to this Consent Decree, it shall be effective only upon approval by the Court. Minor changes, or changes to the technical provisions set forth in Section VI (Compliance Requirements), Section VII (SEP) and Section VIII (Reporting Requirements), or to any schedule, may be made without approval of the Court, upon written agreement between Defendant and the EPA, in consultation with GAEPD

88. Any disputes concerning modification of this Consent Decree shall be resolved pursuant to Section XI (Dispute Resolution), provided, however, that, instead of the burden of proof provided by Paragraph 66 (Standard of Review), the Party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Federal Rule of Civil Procedure 60(b).

XIX. TERMINATION

89. After Defendant has completed the requirements of Section VI (Compliance Requirements), Section VII (Supplemental Environmental Project), and Section VIII (Reporting Requirements), and has complied with all other requirements of this Consent Decree, and has paid the civil penalty and any accrued stipulated penalties as required by this Consent Decree, Defendant may serve upon the United States and the State of Georgia a Request for Termination, stating that Defendant has satisfied those requirements, together with all necessary supporting documentation.

90. Following receipt by the United States and the State of Georgia of Defendant's Request for Termination, the Parties shall confer informally concerning the Request and any disagreement that the Parties may have as to whether Defendant has satisfactorily complied with the requirements for termination of this Consent Decree. If the United States, in consultation with the State of Georgia, agrees that the Consent Decree may be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Consent Decree.

91. If the United States, in consultation with the State of Georgia, does not agree that the Consent Decree may be terminated, Defendant may invoke Dispute Resolution under Section XI. However, Defendant shall not seek Dispute Resolution of any dispute regarding termination until after the United States has rendered a decision on the Request for Termination.

XX. PUBLIC PARTICIPATION

92. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) Days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. Defendant consents to entry of this Consent Decree without further notice and agrees not to withdraw from or oppose entry of this Consent Decree by the Court or to challenge any provision of the Consent Decree, unless the United States has notified Defendant in writing that it no longer supports entry of the Consent Decree.

93. If, for any reason, the Court should decline to approve this Consent Decree in the form presented, then this agreement is voidable at the discretion of any Party, and the terms of the Consent Decree may not be used as evidence in any litigation between the Parties.

XXI. SIGNATORIES/SERVICE

94. Each undersigned representative of Defendant, the United States, and the State of Georgia certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

95. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis. Defendant agrees to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons.

XXII. INTEGRATION

96. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Consent Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. Other than deliverables that are subsequently submitted and approved pursuant to this Consent Decree, no other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Consent Decree or the settlement it represents, nor shall it be used in construing the terms of this Consent Decree.

XXIII. FINAL JUDGMENT

97. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court as to the United States, the State of Georgia, and Defendant. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

XXIV. APPENDICES

98. The following appendices are attached to and part of this Consent Decree:

- "Appendix A" is the list of All Facilities Subject to the Consent Decree.
- "Appendix B" is a list of UST Facilities subject to the SEP.
- "Appendix C" is a description of the SEP.
- "Appendix D" is a table of deliverables.
- "Appendix E" is GAEPD guidance pertaining to release detection and suspected release site check.

IT IS HEREBY ORDERED on this ___ day of ____, 20___, that the foregoing Consent Decree be entered as an Order of this Court.

United States District Judge

In the matter of United States of America and the State of Georgia v. Woco Pep Oil, Inc.

FOR PLAINTIFF UNITED STATES OF AMERICA:

Dated: 7/27/17



EMILY SHINGLER

United States Attorney

Northern District of Georgia

Georgia Bar No. 311482

600 Richard B. Russell Federal Bldg.

75 Spring Street, S.W.

Atlanta, GA 30303

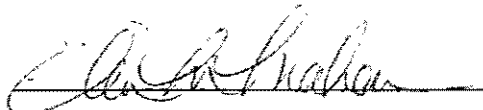
404-581-6228

Emily.Shingler@usdoj.gov

In the matter of United States of America and the State of Georgia v. Woco Pep Oil, Inc.

FOR PLAINTIFF UNITED STATES OF AMERICA (continued):

Dated: _____



ELLEN M. MAHAN

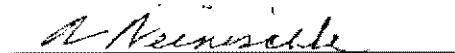
Deputy Section Chief

Environmental Enforcement Section

Environment & Natural Resources Division

United States Department of Justice

Dated: 8/23/17



WILLIAM A. WEINISCHKE

Senior Attorney

Environmental Enforcement Section

United States Department of Justice

P.O. Box 7611

Ben Franklin Station

Washington, D.C. 20044

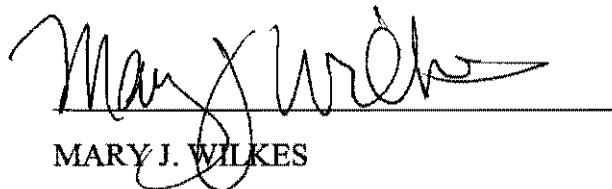
(202) 514-4592

Bill.Weinischke@usdoj.gov

In the matter of United States of America and the State of Georgia v. Woco Pep Oil, Inc.

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Dated: 7/6/17



MARY J. WILKES

Regional Counsel

U. S. Environmental Protection Agency

Region 4

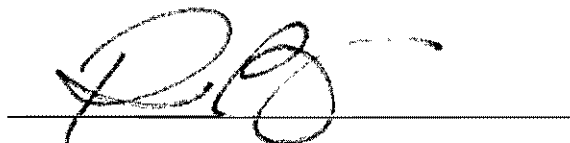
61 Forsyth Street, SW

Atlanta, GA 30303-8960

(404)562-9556

Wilkes.Mary@epa.gov

Dated: 6.28.17



ROBERTO X. BUSO

Associate Regional Counsel

U. S. Environmental Protection Agency

Region 4

61 Forsyth Street, SW

Atlanta, GA 30303-8960

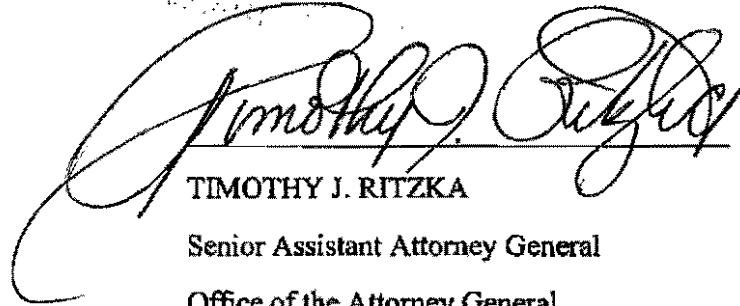
(404) 562-8530

Buso.Roberto@epa.gov

In the matter of United States of America and the State of Georgia v. Woco Pep Oil, Inc.

FOR THE STATE OF GEORGIA:

Dated: 20 Jul 17



TIMOTHY J. RITZKA

Senior Assistant Attorney General

Office of the Attorney General

State of Georgia

40 Capital Square SW

Atlanta, Georgia 30084-2583

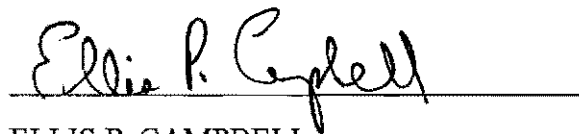
(404) 657-3976

TRitzka@law.ga.gov

In the matter of United States of America and the State of Georgia v. Woco Pep Oil, Inc.

FOR DEFENDANT WOCO PEP OIL, INC:

Dated: 6/17/2017

A handwritten signature in black ink, reading "Ellis P. Campbell", is written over a horizontal line.

ELLIS P. CAMPBELL

President

Woco Pep Oil, Inc.

4129 Guinn Street N.W.

Covington, Georgia 30014

(770) 786-2375

WocoPepOilCo@yahoo.com

APPENDIX A

FACILITIES SUBJECT TO THE CONSENT DECREE

APPENDIX A

FACILITIES SUBJECT TO THE CONSENT DECREE

Defendant agrees that each Facility identified below is subject to the terms of this Consent Decree.

UST Facilities:

1. Depot Pure, 4111 Emory Street, Covington, Newton County, Georgia;
2. Covington Pure, 6125 Hwy 278, Covington, Newton County, Georgia;
3. Auto Performance, 4144 Hwy 278, Covington, Newton County, Georgia;
4. Pit Stop, 1313 Hwy 11 M, Covington, Newton County, Georgia;
5. Pony Express, 1817 Hwy 11 South, Covington, Newton County, Georgia;
6. Rocky Plains Community Store, 2310 Hwy 212, Covington, Newton County, Georgia;
7. MLK Drive Food Mart #2, 4120 Washington Street, Covington, Newton County, Georgia;
8. Happy Food Mart, 15825 Hwy 36, Covington, Newton County, Georgia;
9. Pure Food Mart (f/k/a Harry's Food Mart), 100 Morningside Drive & 162 Connector, Covington, Newton County, Georgia;
10. Peters Grocery, 800 East Church Street, Covington, Newton County, Georgia;
11. TDS Auto Repair (a/k/a Social Circle), 1656 South Cherokee Rd., Social Circle, Walton County, Georgia;
12. Hot Spot, 409 East Marable Street, Covington, Newton County, Georgia;

13. Fairplay General Store (f/k/a Hard Labor Grocery), 2700 Fairplay Road,
Rutledge, Morgan County, Georgia;
14. Quick Pick Food Mart (f/k/a Shumate Grocery), 1100 South Madison Street,
Monroe, Walton County, Georgia.

AST Facility:

15. Woco Pep Fueling Depot, 4129 Guinn Street N.W., Covington, Newton County,
Georgia, 30014.

APPENDIX B

UST FACILITIES SUBJECT TO THE SEP

APPENDIX B

UST FACILITIES SUBJECT TO THE SEP

Defendant agrees that each UST Facility identified below is subject to the SEP requirements of this Consent Decree.

1. Depot Pure, 4111 Emory Street, Covington, Newton County, Georgia;
2. Covington Pure, 6125 Hwy 278, Covington, Newton County, Georgia;
3. Auto Performance, 4144 Hwy 278, Covington, Newton County, Georgia;
4. Pit Stop, 1313 Hwy 11 North, Covington, Newton County, Georgia;
5. Rocky Plains Community Store, 2310 Hwy 212, Covington, Newton County, Georgia;
6. Pure Food Mart (f/k/a Harry's Food Mart), 100 Morningside Drive & 162 Connector, Covington, Newton County, Georgia;

APPENDIX C
AUTOMATIC TANK GAUGING SYSTEM
SUPPLEMENTAL ENVIRONMENTAL PROJECT

APPENDIX C

AUTOMATIC TANK GAUGING SYSTEM

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Defendant shall install, operate and maintain an automatic tank gauging (ATG) system that collects data generated by the release detection monitoring equipment on USTs owned and/or operated by Defendant, pursuant to the requirements of Section VII (SEP) of this Consent Decree, and in accordance with the specifications and criteria identified in this Appendix.

- 1. Equipment:** The ATG system shall be installed at all the UST Facilities identified in Appendix B, and shall be equipped with instruments, including probes, wiring and consoles capable of monitoring and providing information on product level and temperature, and automatically calculating the changes in product volume that can indicate a leaking tank or piping.
- 2. Performance Requirements:** The ATG system equipment installed at UST Facilities identified on Appendix B shall be capable of sounding both audible and visible alarms on the equipment's consoles to alert Facility personnel of any alarm conditions that the installed sensors detect. The ATG system equipment must be capable of collecting and storing all data generated by the release detection monitoring equipment installed pursuant to Section VII (SEP) of this Consent Decree from each Facility on Appendix B. All data shall mean all data required to be generated by Section VII (SEP) of this Consent Decree, consisting of release detection monitoring reports for each UST System and its associated piping, alarm data, line tightness test data, and line leak detector test data. The fuel management software must be capable of collecting, in real-time, all "FUEL

ALARM,” “ALARM,” or “ACTIVE,” data collected by the release detection monitoring equipment installed pursuant to Section VII (SEP) of the Consent Decree. If “FUEL ALARM,” “ALARM,” “ACTIVE” data, or other condition that may indicate a release of a regulated substance, is reported, onsite personnel who can take immediate action (*e.g.*, inspect sumps, turn off dispensers, etc.) to minimize the effects of a suspected release, and investigate the “Fuel Alarm,” “Alarm,” “Active” data or other condition in accordance with the “system test” or “site check” procedures laid out in 40 C.F.R. § 280.52 and the GUST rules. Where Defendant’s investigation into the “Fuel Alarm,” “Alarm,” “Active” data or other condition indicates a potential release of a regulated substance, Defendant must contact response personnel at the EPA and the GAEPD within 24 hours and shall address the condition and conduct any necessary response and repair work in accordance with the requirements set forth at 40 C.F.R. §§ 280.50-280.52 and the applicable GUST Rule requirements.

3. **Operation:** Defendant shall operate and maintain in good working condition the ATG system equipment and software described herein in accordance with manufacturers’ recommendations for a period of not less than three (3) years from the commencement of operations, starting no later than six (6) months after the Effective Date.
4. **Record Retention:** All reports and data generated by release detection monitoring equipment at each Facility listed on Appendix B shall be retained for a minimum of two (2) years from the termination of this Consent Decree. Reports shall be available to the EPA upon request.

APPENDIX D

TABLE OF DELIVERABLES

APPENDIX D	
TABLE OF DELIVERABLES	
Requirement:	Timeline (abbreviated):
UST/AST Transfer (Section II): Provide copy of CD to transferee and provide notice of proposed transfer (Paragraph 12.b):	15-30 days prior to transfer.
Perform necessary tests, repairs, upgrades, site assessments, closures and corrective action (Paragraph 12.c):	Prior to transfer.
Complete SEP Project installation (Paragraph 12.d):	Prior to transfer.
Demonstrate transferee has satisfied financial assurance and operator training requirements (Paragraph 12.e & f):	Prior to transfer.
Submit signed certification (Paragraph 12.g):	15 days prior to transfer.
Submit copy of transfer agreement (Paragraph 12.h):	5 days after execution.
Civil Penalty Payment (Section V): Pay civil penalties (Paragraphs 17 & 18):	30 days after Effective Date.
Compliance Requirements (Section VI): Submit compliance certification (Paragraph 21):	30 days after the end of each calendar year.
Complete closure activities (Paragraph 22):	90 days after Effective Date.
Report suspected release (Paragraph 23):	24 hours after second consecutive inconclusive monitoring result.
Submit compliance records (Paragraph 24):	30 days after the end of each calendar quarter, for 1 year.
Supplemental Environmental Project (Section VII): Complete installation of SEP (Paragraph 29):	6 months after Effective Date.
Maintain records of ATG system for SEP (Paragraph 30):	For 2 years after Effective Date.

Operate and maintain ATG systems for SEP (Paragraph 31):	For 3 years after Effective Date.
SEP Installation Completion Report (Paragraph 34):	30 days after completion of installation of the ATG system for the SEP.
Reporting Requirements (Section VIII):	
Submit Annual Reports (Paragraph 40.a):	30 days after the end of each calendar year, for 1 year.
Provide initial report of violation (Paragraph 40.b):	10 days of becoming aware.
Provide amended report of violation (Paragraph 40.b):	30 days of becoming aware of cause.
Immediate threat to public health or welfare or the environment (Paragraph 41):	As soon as possible – no later than 24 hours.
Force Majeure (Section X):	
Initial notification of event (Paragraph 54):	72 hours of delay.
Formal notification of event (Paragraph 54):	7 days after event.
Dispute Resolution (Section XI):	
Informal Dispute Resolution (Paragraph 60):	Invoke within 20 days of dispute.
Formal Dispute Resolution (Paragraph 61):	Invoke within 20 days of conclusion of Informal Dispute Resolution period

Appendix E

GAEPD Guidance:

“Compliance Guidance for Statistical Inventory Reconciliation” (rev. July 1997)

and

“Suspected Release Site Check Report” (rev. May 2016)

**ENVIRONMENTAL PROTECTION DIVISION
COMPLIANCE GUIDANCE FOR
STATISTICAL INVENTORY RECONCILIATION (SIR)**

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**ENVIRONMENTAL PROTECTION DIVISION
COMPLIANCE GUIDANCE FOR
STATISTICAL INVENTORY RECONCILIATION (SIR)**

AUTHORITY

The purpose of this guidance document is to assist the regulated community, SIR vendors, and other interested parties in understanding Georgia's policies for satisfactory utilization of SIR as a monthly monitoring method. Georgia recognizes SIR as one of the "other methods" of monthly monitoring allowed under Georgia's Rules for Underground Storage Tank Management, Chapter 391-3-15-.07, which incorporates §40 CFR 280.43(h). This Rule states that "any other type of release detection method, or combination of methods, can be used if the following performance standard can be met:

It can detect a 0.20 gallon per hour (GPH) leak rate or a release of 150 gallons within a month with a "PROBABILITY OF DETECTION of at least 0.95 and a PROBABILITY OF FALSE ALARM of no more than 0.05."

Probability of detection means that if 100 UST systems are tested, all of which are leaking at exactly 0.2 GPH, the test will correctly identify at least 95 of them as leakers. Probability of false alarm means that if 100 UST systems are tested, none of which are leaking (0.00 GPH), no more than 5 of them will incorrectly fail the test.

For any SIR method to be an acceptable stand alone monthly monitoring method for leak detection it must have received a third party evaluation and subsequent certification that the method can meet the performance standard stated above. The O/O must maintain a copy of the third party evaluation above.

INTRODUCTION

Statistical inventory reconciliation analyzes inventory, delivery, and dispensing data collected over a period of time to determine if the UST system (tank and associated product lines) is leaking. Each operating day the UST owner/operator (O/O) measures the product level using a gauge stick or other tank level monitor. The O/O also keeps complete records of all withdrawals and all deliveries to the UST. After data has been collected for a specified period of time (not to exceed thirty days), the O/O provides the data to the SIR vendor for processing. The SIR vendor processes the data and provides the O/O with monthly results showing the status of the UST system. Computer software is used to conduct a statistical analysis of the data to determine if the UST system is leaking. Some SIR methods can report if dispensers are out of calibration, theft is occurring, or product deliveries are inaccurate.

"Stand-Alone" SIR software systems are available whereby the O/O gathers the data, analyzes the data once per month and maintains the results in their leak detection records. These SIR software systems must also have an independent third party evaluation/certification indicating the system is capable of meeting the requirements of §40 CFR 280.43(h). The O/O must maintain a copy of the third party evaluation.

DEFINITIONS

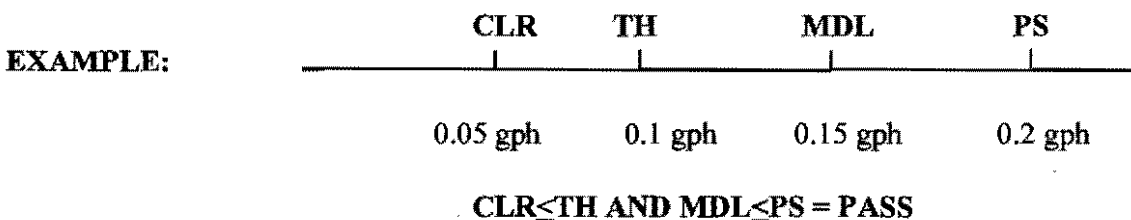
Performance Standard (PS): To qualify as a leak detection method, SIR must be able to meet the performance standards of being able to detect a 0.2 GPH leak rate. The method must be able to detect a 0.20 GPH leak rate or a release of 150 gallons within a month with a PROBABILITY OF DETECTION of at least 0.95 and a PROBABILITY OF FALSE ALARM of no more than 0.05.

Threshold for Declaring a Leak (TH): The TH is the leak rate that defines the boundary between pass and fail results. When the calculated leak rate is greater than the TH, the test result is “fail.” The TH for a SIR vendor is determined by the third party evaluation and is most often equal to 0.1 GPH. The TH must be smaller than the performance standard (0.1 GPH) in order to be 95% sure of detecting 0.2 GPH leaks.

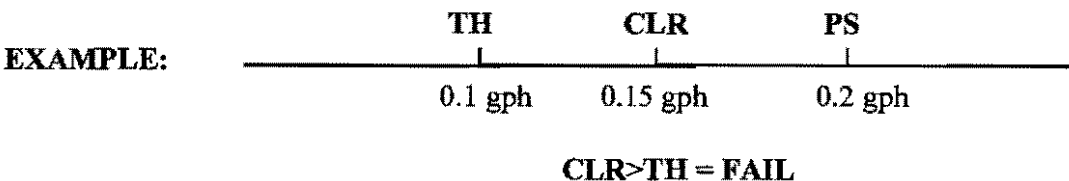
Minimum Detectable Leak Rate (MDL): MDL is the smallest leak that can be reliably detected in a given set of data. To be in compliance with leak detection regulations, the MDL must be less than or equal to the performance standard for a SIR analysis to provide conclusive results. In other words, if the quality of a set of data is so poor that a leak of 0.2 GPH cannot be detected with at least 95% accuracy, then the performance standard has not been met and the test result must be inconclusive or fail.

Calculated Leak Rate (CLR): CLR is the estimated leak value, always expressed in GPH, for a given set of data. To obtain the most accurate calculated leak rate, the SIR analysis must account for conversion errors caused by tank tilt and/or deformation, mechanical problems and temperature fluctuations prior to analysis. Once all discrepancies are taken into account the residual cumulative over/short becomes the estimated leak rate for a given data set.

Pass: If the CLR does not exceed the TH and the MDL is less than or equal to the PS (0.2 GPH), the test result will be a “PASS”.



Fail: If the CLR is greater than the leak TH value of 0.1 gph, the test result will be a “FAIL”.



NOTE: A loss or gain of product in excess of the threshold is a fail.

Inconclusive: A SIR test result is inconclusive when it produces a MDL that **exceeds** the certified performance standard of 0.2 GPH, and a CLR that is less than the TH.

An inconclusive generally indicates that the inventory records are too poor, have too much variability, or are of insufficient length such that the data could not be analyzed with reliable results.

An inconclusive result has been interpreted by EPD as noncompliance with the leak detection requirements for the period of time on which the inconclusive was based. What an O/O must do to resolve an inconclusive is discussed under EPD REQUIREMENTS No. 9, below.

EXAMPLE:	CLR	TH	PS	MDL
	.08 gph	0.1 gph	0.2 gph	0.25 gph
CLR < TH and MDL > PS = INCONCLUSIVE				

NOTE: In determining whether a result is inconclusive, the absolute value of the MDL should be compared to the PS.

ENSURING QUALITY DATA

Conclusive SIR analysis results are contingent upon proper and sound inventory practices. An owner/operator must ensure that the following practices are employed:

- Measure the product level accurately to the nearest one-eighth inch (1/8") at the same time every day the site operates. When measuring the product level, take the average of two stick readings prior to converting inches to gallons.
- The equipment used must be capable of measuring the level of product over the full range of the tank's height.
- No dispensing can occur between product level readings and meter readings.
- Record all sales on a daily basis. All figures must be rounded to the nearest one gallon.
- Record all delivery information accurately and as it appears on the bills of lading. Whether gross or net delivery figures should be submitted for SIR analysis is determined by your SIR vendor.
- Check for water in the USTs at least once a month. Measurements must be made to the nearest one-eighth inch and must be taken into consideration in the SIR determination of tank status.
- Calculate and evaluate overages and shortages daily. If any inaccuracy is detected, verify all records for that day and the day before for any computation or measurement errors.
- Keep all inventory records independently for each tank. If the site operates a manifolded tank system, sales and delivery information may be combined. Separate tank product level readings must be maintained for every tank in the manifold set.

EPD REQUIREMENTS:

- 1) The procedures specified in §40 CFR 280.43 (a) for inventory control can be used to gather data for SIR. Drop tubes which extend to within one foot of the tank bottom are required for inventory control and are likewise required for gathering data for SIR.
- 2) Monthly SIR results must be reported on Georgia Form, GUST -126, "Monthly Statistical Inventory Reconciliation Report" (copy attached) or on an equivalent form. The Georgia form is consistent with the form developed through a joint effort between EPA Region IV States and EPD.
- 3) The results reported must contain the language: "**pass, fail, or inconclusive**" in accordance with the definitions presented above.
- 4) In addition to all the information listed on Georgia Form, GUST-126 (noted in No. 2 above), all results reported **MUST** state the threshold level, calculated leak rate, minimum detectable leak rate, tank capacity, the number of data points analyzed for a given month, number of days submitted by the owner or operator and the final system results for the month.
- 5) SIR reports should be received by the O/O no later than twenty (20) business days after the end of the reporting period.
- 6) The threshold leak rate must be in accordance with to the third party certification.
- 7) Monthly reports consisting of raw inventory data, plus the resulting SIR determination must be maintained by the owner/operator. The last three years of SIR results must be maintained for EPD review if the facility is a participant to the GUST Trust Fund. If the facility is not participating in the GUST Trust Fund , the last twelve months of SIR results must be maintained.
- 8) SIR may not be used as a substitute for tightness testing.
- 9) If the result of a SIR monthly analysis is inconclusive, the O/O must conduct a release investigation within seven (7) days from the date of receipt of the vendor's report or their own report if they are utilizing a stand alone SIR system. The O/O should use the vendor's standard investigation procedures to review inventory records and calculations to determine if there are any errors. If the problem is determined not to be a data problem, the O/O must check for physical problems such as meter miscalibration and inspect all accessible portions of the UST system for evidence of leakage.

If the first monthly report after completion of the investigation into the cause of the previous months' inconclusive is again inconclusive, unusable or anything other than a definite conclusion, the O/O must:

- a) report a suspected release to EPD within twenty-four hours of receipt of the vendor's report or their own report if a stand alone system is used;
- b) perform a tightness test within seven (7) days, to determine whether or not a leak exists in the tank or piping and submit the results within thirty (30) days to EPD.

- c) Any time two (2) consecutive months of SIR monthly analyses yield reports of inconclusive, the O/O must consider another method of release detection until a determination of the problem is made and resolved.
- 10) If the result of a SIR monthly analysis indicates a failure, the O/O must:
- A) report a suspected release to EPD within (24) hours of receipt of the vendor's report or their own report if a stand alone system is used, and
 - B) conduct a release investigation within seven (7) days of obtaining the report. The O/O should use the vendor's standard investigation procedures in conducting the investigation. After completing the investigation, the O/O should proceed as follows:
 - 1) If the investigation does not reveal a cause for the failed test result, a tightness test must be performed within seven (7) days to check on whether a leak exists in the tank and or piping, and the test results must be submitted to the EPD immediately.
 - 2) If the investigation indicates that factors accounting for the loss trend are not related to a release, these factors must be immediately corrected, and no tightness test is required. However, if the first monthly report after completion of the investigation into the cause of the previous month's loss trend again indicates a loss or is inconclusive, the O/O must
 - i) report a suspected release to EPD within twenty-four (24) hours of receipt of the vendor's report or their own report if a stand alone system is used; and
 - ii) perform a tightness test within seven (7) days to determine whether or not a leak exists in the tank or piping and submit the results to EPD.
- 11) If the result of a SIR monthly analysis is a fail and the leak rate is negative, the O/O must check the tank immediately and daily thereafter for at least seven days for the presence of water. This means that you are gaining product. Increase in product can be due to water entering the tank or miscalibrated meters. The following procedures must be followed:
- A) Calibrate meters;
 - B) Check for water for seven days.
- If there is no water in the tank, or if the water level is one inch or less and does not change from day to day, the O/O must document the results of the water checks and follow the vendor's standard investigation procedures to determine the reason for the gain trend and correct the problem.
 - If the daily water checks show more than 1 inch of water in the tank the O/O must have the water pumped out of the tank. If subsequent daily water checks show no water in the tank, the O/O must document the results of the water checks and follow the vendor's standard investigation procedures to determine the reason for the gain trend and correct the problem.

- If the water has been pumped out of the tank and subsequent daily water checks show that there is again water in the tank, or if the water level in the tank changes from day to day, the O/O must:
 - A) report a suspected release to EPD within 24 hours; and
 - B) perform a tightness test within seven (7) days to determine whether or not a leak exists in the tank or piping and submit the results to EPD immediately.
- 12) O/O's using a Stand Alone SIR System should establish their reporting period based on the first and last date of each month (monthly basis). If a loss trend occurs during any part of the month, it is acceptable to report it immediately as a suspected release. EPD will not penalize an O/O for waiting until the end of the month to report.
- 13) If the result of a SIR monthly analysis is pass, retain records for three years.

**GEORGIA ENVIRONMENTAL PROTECTION DIVISION
MONTHLY STATISTICAL INVENTORY RECONCILIATION (SIR) REPORT**

FACILITY NAME		EPD ID #
TANK	Address	City
LOCATION	Phone ()	Zip
TANK OWNER	Name	
	Address	
	City	Phone ()
TANK OPERATOR	Name	Phone ()

SIR Provider		Phone ()
SIR version		Date of SIR report
Period Covered		What is the required number of usable inventory days per tank?

TANK				Current Month					Last Month			Two Months Ago					
No.	Product	Max. SIR test (gal.)	Capacity (gal.)	Leak Threshold gph	Minimum Detectable Leak Rates ^c gph	Calculated Leak Rates ^b gph	Pass, Fail, or Inconclusive			Pass, Fail, or Inconclusive			Pass, Fail, or Inconclusive				
							P	F	I	P	F	I	P	F	I		

1. The tank owner is required to have an SIR report for each month.
2. Monthly reports must be submitted to the Georgia EPD upon request.
3. The tank owner is required to have the completed report by the 20th business day of the following month.
4. If, for any reason, the test is neither "pass" or "fail," the "inconclusive" column must be marked.
5. The UST system owner/operator must notify EPD within twenty-four (24) hours at (404) 362-2687 of a suspected release and conduct a tank and piping tightness test within seven (7) days of the occurrence of one of the following :
 - The monthly analysis indicates a "fail,"
 - The monthly analysis produces an unexplained loss/gain of product, or
 - The second consecutive monthly analysis is inconclusive, or fail.
6. All SIR Methods:
 - a. A leak threshold, minimum detectable leak rate, and calculated leak rate must be provided for each tank. If not, the report is incomplete and will not be accepted by EPD.
 - b. If the calculated leak rate for a tank is greater than the leak threshold, the tank failed the SIR test. (leak threshold = one half of the required performance standard of 0.2 gph)
 - c. If the minimum detectable leak rate for a tank is greater than the required performance standard, the test is inconclusive for that month.
7. A conclusive result of "pass" or "fail" is required to meet the monthly leak detection requirements.
8. The results of monthly measurements for water in each tank, must be recorded in inches on the following lines:
 - 1) _____ ; 2) _____ ; 3) _____ ; 4) _____ ; 5) _____

Person conducting evaluation			
Signature (optional)		Date	

gust-126.for

7/16/97

Georgia Department of Natural Resources

Environmental Protection Division

Underground Storage Tank Management Program

4244 International Parkway, Suite 104, Atlanta, Georgia 30354

Lonice C. Barrett, Commissioner

Harold F. Reheis, Director

(404)362-2687

ENVIRONMENTAL PROTECTION DIVISION COMPLIANCE GUIDANCE FOR STATISTICAL INVENTORY RECONCILIATION (SIR)

The Underground Storage Tank Management Program (USTMP) has completed a guidance document for Statistical Inventory Reconciliation (SIR) use and reporting. This document is the result of a coordinated effort between the USTMP, seventeen (17) SRI vendors and several UST owners.

The purpose of this guidance is to assist the regulated community, SIR vendors, and other interested parties in understanding Georgia's policies for properly utilizing SIR as a monthly monitoring method. Georgia recognizes SIR as one of the "other methods" of monthly monitoring allowed under Georgia's Rules for Underground Storage Tank Management, Chapter 391-3-15-.07, which incorporates 40 CFR 280.43(h).

This guidance ensures reporting language consistency by establishing "**pass**", "**Fail**", and "**inconclusive**" as the only terms for use in reporting results. In addition, the guidance provides clarification concerning reporting of suspected releases and inconclusive results. This guidance will also facilitate the review process of SIR results by USTMP staff.

If you use SIR, Please ask your vendor if they are aware of this guidance and whether or not they have a copy. A copy of this guidance can be obtained by contacting Shaheer Muhanna at (404) 632-2687.

The USTMP is requesting that this guidance be implemented in **March of 1998**.



GEORGIA

DEPARTMENT OF NATURAL RESOURCES

ENVIRONMENTAL PROTECTION DIVISION

Land Protection Branch Underground Storage Tank Management Program (USTMP)

SUSPECTED RELEASE SITE CHECK REPORT

UNDERGROUND STORAGE TANK (UST) SITE CHECK REPORT INSTRUCTIONS:

In accordance with Rule 391-3-15-.08, release confirmation steps shall be completed within seven (7) days. A Suspected Release Site Check Report shall be submitted to the UST Management Program (USTMP) within thirty (30) days of completion of release confirmation activities. The report shall be an original submittal. The Suspected Release Site Check Report form is completed electronically and uses checkboxes, drop down menus and text fields. The electronically completed form and tables are formatted to assist the USTMP to capture entries electronically.

Date of Site Check Report:		
Facility Name	Facility ID Number	County

I. EXECUTIVE SUMMARY

Provide an executive summary of this report including a summary of results, conclusions and recommendations

II. APPENDICES CHECKLIST

The Suspected Release Site Check Report is not complete unless the following supporting documentation, if applicable, is attached in the Appendices and in the order specified in the table below. If an appendix is not applicable (N/A), then the checklist below should reflect that determination.

APPENDICES CHECKLIST			
Appendix	Documentation Description	Attached?	
		Yes	N/A
A	EPD USTMP Suspected Release Correspondence		
B	Site Map		
C	Original Signed Laboratory Certificates of Analysis		
	Original Laboratory Chain of Custody		
D	Disposal Manifest(s) and Weight Tickets for Soil		
	Disposal Manifest(s) for Water and/or Product		
E	Photographs		

III. UST FACILITY, OWNER, CONSULTANT &/OR CONTRACTOR INFORMATION**A. Facility Information**

Facility ID Number:	
County:	
Facility Name:	
Street Address (No P.O. Box):	
Phone Number (+ area code):	

B. Tank Owner Information

Owner Name:	
Owner Company Name:	
Owner Mailing Address:	
Phone Number (+ area code):	

C. Environmental/Engineering Consultant or Contractor Information

Company Name:	
Company Representative:	
Company Mailing Address:	
Phone Number (+ area code):	

IV. SUSPECTED RELEASE SITE CHECK INFORMATION

A. Excavated Material Management

1. Was any soil/gravel excavated during site check activities?

Yes:		No:	
------	--	-----	--

If soil/gravel was not excavated during site check activities, then proceed to B Water &/or Free Product Management.

2. Was all contaminated soil above applicable cleanup levels excavated?

Yes:		No:	
------	--	-----	--

B. Water &/or Free Product Management

1. Check the applicable boxes below:

Free product was not encountered:	
Water was not encountered:	

If both free product and water were not encountered during site check activities, then proceed to V. Site Check Conclusions.

2. Describe where water &/or free product was encountered including depth, thickness and type of product, if known. Also provide the method of recovery and treatment/disposal location.

3. Did water &/or free product recharge? If yes, describe what specifically recharged. If water recharged, it is to be sampled and results discussed here.

V. SITE CHECK CONCLUSIONS

A. Summary of Site Conditions

Select the applicable boxes below to characterize site conditions at the completion of the site check.

Yes	No	N/A	Site Conditions at Completion of Site Check Activities
			Soil COCs were below applicable cleanup levels
			Free product was encountered before or during site check
			Free product was removed and is no longer present
			Ground water was encountered during site check activities
			Ground water was removed and did not recharge
			Ground water COCs from recharge water were below applicable cleanup levels

B. Conclusions and Recommendations

Based on the site conditions selected above, what conclusion is recommended for this site check?

<input type="checkbox"/>	A release is not confirmed and No Further Action is warranted
<input type="checkbox"/>	Additional site assessment under a Corrective Action Plan (CAP)-Part A is warranted.
<input type="checkbox"/>	Other recommendation. In the space below, provide the recommendation and include specific details:
