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CONSENT AGREEMENT DEC -6 AM 10:59

This Consent Agreement is by and between Automated Petroleum, Inc. ("AP Inc.") and the State of Ohio, Department of Commerce, Division of the State Fire Marshal's Bureau of Underground Storage Tank Regulations ("BUSTR").

WHEREAS, the State Fire Marshal is charged with the responsibility of administering, implementing, and enforcing Chapter 3737.87, *et seq.* of the Ohio Revised Code ("ORC") and the regulations promulgated thereunder.

WHEREAS, AP Inc. is a corporation organized under the laws of and authorized to conduct business in the State of Ohio with its principal place of business located at 402 N. Warpole Street, Upper Sandusky, Ohio 43351.

WHEREAS, AP Inc. is an "owner", as that term is defined in ORC 3737.87(H) and "operator", as that term is defined in ORC 3737.87(G) of one 6000 gallon and one 12,000 gallon petroleum underground storage tank systems ("the USTs") that are constructed of fiberglass-reinforced plastic and located at 602 N. Main Street, Ada, Ohio, also known as the Express Mart ("the Site").

WHEREAS, ORC 3737.882(C)(1) provides that no person shall violate or fail to comply with a rule adopted under division (A) of section 3737.88 of the Revised Code.

WHEREAS, Ohio Administrative Code ("OAC") 1301:7-9-12 mandates that certain actions be taken when operating UST systems are taken out of service.

WHEREAS, the USTs have been out of service for more than twelve months.

WHEREAS, on or about February 6, 2001, an authorized representative of BUSTR conducted an inspection of the Site to determine compliance with ORC 3737.87 *et seq.* and the regulations promulgated thereunder, and noted violations of OAC 1301:7-9-12 at the Site as set forth in Notice of Violation No. 02644, a copy of which is attached hereto as Attachment A and incorporated herein.

WHEREAS, AP Inc. acted in violation of ORC 3737.882(C) and OAC 1301:7-9-12(D)(2)(e) when it temporarily closed the USTs at the Site without obtaining a permit from the Fire Marshal.

WHEREAS, AP Inc. acted in violation of ORC 3737.882(C) and OAC 1301:7-9-12(F)(1) when it failed to have the fill lines, gauge openings and dispensing units at the Site secured against tampering while the USTs remained temporarily out of service.

WHEREAS, AP Inc. acted in violation of ORC 3737.882(C) and OAC 1301:7-9-12(G)(1)(c) when it failed to empty the USTs while they remained temporarily closed.

WHEREAS, AP Inc. acted in violation of ORC 3737.882(C) and OAC 1301:7-9-12(G)(2) when it failed to permanently remove the USTs which had been out of service for more than twelve months.

WHEREAS, the USTs meet the new and/or upgrade requirements for construction and cathodic protection as set forth in OAC 1301:7-9-06(B) and/or (C).

WHEREAS, AP Inc. has represented that it has upgraded the USTs with spill and overfill equipment and intends to place the USTs back into service in December, 2001.

WHEREAS, the State Fire Marshal desires to satisfy the existing claims against AP Inc. only insofar as such claims relate to AP Inc.'s failure to comply with the temporary closure requirements of OAC 1301:7-9-12 as specifically set forth in this Consent Agreement.

NOW, THEREFORE, for and in consideration of the promises and mutual agreements of the parties hereto, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. AP Inc. shall perform a closure assessment of the USTs at the Site in accordance with the requirements of OAC 1301:7-9-12 (K)(4) through (K)(6) and submit a written closure report to BUSTR in accordance with the requirements of OAC 1301:7-9-12(L) within forty five days of the date this Consent Agreement is signed by the State Fire Marshal.

2. AP Inc. shall install spill and overfill prevention equipment on the USTs in accordance with the requirements of OAC 1301:7-9-06(C)(4), provide release detection for the tanks and piping in accordance with the requirements of OAC 1301:7-9-07 and place the USTs at the Site back into service no later than **December 31, 2001**. AP Inc. shall conduct a tightness test of the entire system for each of the USTs at the Site prior to placing each back into service.

3. In the event AP Inc. fails to timely comply with paragraphs one and two above, AP Inc. shall permanently remove the USTs at the Site in accordance with all requirements of OAC 1301:7-9-12 no later than March 1, 2002. The BUSTR Chief may grant an extension, in writing, of any of the deadlines herein imposed for good cause shown as determined by the BUSTR Chief.

4. AP Inc. shall pay to BUSTR One Thousand Eight Hundred Fifty Dollars (\$1,850.00) by delivering a certified check for that amount, payable to the order of "Treasurer, State of Ohio" to counsel for BUSTR, Assistant Attorney General Sandra H. Ramos, 6606 Tussing Road, P.O. Box 687, Reynoldsburg, Ohio 43068 upon execution of this Consent Agreement.

5. The payment required herein shall not be construed as a valuation of any civil penalty claim available pursuant to ORC 3737.882(C) nor shall this payment be construed to satisfy any civil penalty liability which may accrue should this Consent Agreement be breached. If this Agreement should be breached, the State Fire Marshal's BUSTR reserves the right to freely pursue any and all remedies presently available to it.

6. Upon compliance with all terms set forth in this Consent Agreement, the State Fire Marshal's BUSTR shall fully and forever release and discharge AP Inc. from any claim or cause of action BUSTR has against AP Inc. only for those specific violations regarding the two USTs at the Site as set forth in this Consent Agreement. Nothing in this Consent Agreement shall be construed so as to prejudice the right of the State Fire Marshal's BUSTR to issue other orders and enforce the provisions of ORC Chapter 3737 and OAC Chapter 1301.

7. In the event of any default of the terms set forth herein, the State Fire Marshal's BUSTR may elect any and all remedies it deems appropriate.

8. Any submission to BUSTR as required by this Consent Order shall be delivered to:

State Fire Marshal
Bureau of Underground Storage Tank Regulations
Attn: Enforcement Section
6606 Tussing Road
P.O. Box 687
Reynoldsburg, Ohio 43068

9. This Consent Agreement is effective as of the date of the State Fire Marshal's signature below.

Signed and subscribed on behalf of the parties hereto.

IN WITNESS WHEREOF, the parties hereby acknowledge that they have read this Consent Agreement and understand its terms, and intend to be fully bound thereby.

AGREED:

AUTOMATED PETROLEUM, INC.

By: Larry Taylor
Larry Taylor, President and Authorized
Representative of Automated Petroleum, Inc.
402 N. Warpole Street
Upper Sandusky, OH 43351

12-5-01

Date

AGREED:

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF THE STATE FIRE MARSHAL'S
BUREAU OF UNDERGROUND STORAGE TANK REGULATIONS

By: Robert R. Rielage
ROBERT R. RIELAGE, CFO, EFC, MIFireE
State Fire Marshal
6606 Tussing Road
Reynoldsburg, OH 43068

11 Dec 01

Date

APPROVED:

BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO

By: Sandra H. Ramos
SANDRA H. RAMOS
Assistant Attorney General
Environmental Enforcement Section
Bureau of Underground Storage Tank Regulations
6606 Tussing Road
Reynoldsburg, OH 43068
(614) 752-7938

12-7-01

Date