

Underground storage tank owner ordered to pay unprecedented penalty for RCRA, cleanup violations

A Syracuse, NY, man was ordered June 1 to pay a \$4.74 million penalty for failing to comply with a U.S. Environmental Protection Agency cleanup order stemming from leaking underground storage tanks that contaminated a local water supply (United States v. Hill, No. 99CV1716, (N.D.N.Y.)).

By Underground Storage Tank Guide, CThompson Publishing Group
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The recently issued \$4.74 million fine to the owner of a gas station is the largest ever imposed for violation of a federal cleanup order under the Resource Conservation and Recovery Act (RCRA), according to the U.S. Department of Justice (DOJ). Underground storage tank (UST) owner Oliver Hill's actions "amounted to a depraved indifference to the safety of the adjacent residents of the community," said U.S. Attorney Daniel French, adding that the size of the penalty likely will have a significant deterrent effect among the regulated community.

Under RCRA, cash penalties are determined by the seriousness of the violations and any economic benefit the violator may have gained from noncompliance. The penalty imposed by U.S. District Judge Norman Mordue includes \$1.6 million that Hill allegedly gained by not complying with EPA's order, according to DOJ.

Gas station owner allegedly left gasoline in the USTs and failed to inspect the underground pipes Hill owned and operated a gas station on the Onondaga Nation reservation in New York from 1984 until April 1993. When he closed the station, Hill allegedly left gasoline in the USTs and failed to inspect the underground pipes prior to leaving, according to DOJ.

Local resident reported strong odor of gasoline . . .

A resident living near the abandoned gas station reported a strong odor of gasoline coming from a well on his property. The New York State Department of Environmental Conservation (NYSDEC) sampled the shallow aquifer used by nearby residents as a source of drinking water and found highly elevated levels-as much as 10,000 times the concentrations allowed in drinking water-of contaminants such as benzene, toluene, xylene and ethyl benzene. The Onondaga Nation then formally requested help from EPA to address the contaminated water supply.

Improperly installed fittings on pipe are likely to be the cause of the release NYSDEC, which supplied bottled water to the affected residents after the contamination was discovered, hired a contractor to remediate the contaminated soil and construct groundwater monitoring and treatment wells to remove the gasoline. NYSDEC estimated that about 10,000 gallons of gasoline had been released into the soil and groundwater. Testimony at Hill's trial indicated that improperly installed fittings on underground piping were likely the cause of the release. The fittings were so loose that they could be turned by hand, and the soil under the loose fittings was saturated with gasoline, according to DOJ and EPA.

NYSDEC asked Hill to assume the cleanup costs, but he denied responsibility for the contamination, according to the agency. In March 1995, EPA ordered

Hill to complete the work NYSDEC had begun. However, Hill did not respond to the order and failed to meet any of the deadlines or requirements, according to EPA.

Groundwater treatment will continue at the site, according to DOJ. However, EPA predicted that the contaminated aquifer will remain permanently unusable as a water source for residents.