



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

MAR 14 2011

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply To: OCE-082

CERTIFIED MAIL -7008 0150 0000 8075 9855
RETURN RECEIPT REQUESTED

Douglas M. Smith, Secretary/Treasurer
R. H. Smith Distributing Co., Inc.
315 East Wine Country Road
Grandview, Washington 98930

Re: R. H. Smith Distributing Co., Inc.
EPA Docket No. RCRA-10-2010-0136
Smitty's Conoco, Toppenish, Washington

Dear Mr. Smith:

Enclosed is a conformed copy of the Amendment to the Administrative Order on Consent ("AOC") negotiated between R. H. Smith Distributing Co., Inc., and the U.S. Environmental Protection Agency Region 10 ("EPA") in the matter referenced above.

Please contact Rob Rau at (206) 553-6285 if you have any questions concerning implementation of the AOC. You may also have your attorney contact Deborah Hilsman, Assistant Regional Counsel, at (206) 553-1810 with any legal questions concerning this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Edward J. Kowalski".

Edward J. Kowalski
Director

Enclosure

cc: Zach Hiatt,
Graham & Dunn

Elizabeth Sanchez,
Environmental Program Manager,
Yakama Nation

Mike Blum,
Washington Department of Ecology

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Ave, Suite 900
Seattle, Washington 98101

In the matter of:)	
)	
R. H. SMITH DISTRIBUTING)	Docket No. RCRA-10-2010-0136
CO., INC.)	
)	ADMENDMENT TO
)	ADMINISTRATIVE ORDER
Respondent)	ON CONSENT
_____)	

I. PRELIMINARY STATEMENT

1.1. On April 19, 2010, R. H. Smith Distributing Co., Inc. ("Respondent") and the United States Environmental Protection Agency ("EPA") voluntarily entered into an Administrative Order on Consent ("Order") issued under the authority of Section 9003(h) of the Resource Conservation Recovery Act, ("RCRA"), 42 U.S.C. § 6991b(h).

1.2. In the AOC, Respondent agreed to remediate petroleum releases from underground storage tanks located at Respondent's Smitty's Conoco, 102 East Toppenish Avenue, Toppenish, Washington ("facility").

1.3. The AOC is incorporated herein by reference.

1.4. Sections VI, VII, IX, and XIV of the AOC established deadlines by which

Respondent would undertake specific actions; these deadlines were summarized in Section XXV, paragraph 25.

1.5. In August 2010, Respondent asked EPA to allow for additional remedial investigation (“RI”) field work and groundwater sampling to be conducted at the facility before Respondent submitted a draft Corrective Action Plan.

1.6. On October 4, 2010, Respondent submitted a Supplemental RI Work Plan to EPA for review and approval.

1.7. After meeting with EPA and reviewing EPA’s comments on the Supplemental RI Work Plan, Respondent submitted a Revised Supplemental RI Work Plan – 2nd Phase on December 2, 2010.

1.8. EPA agrees to amend the schedule in the AOC to allow Respondent to conduct the additional RI field work and groundwater sampling proposed by Respondent in the Revised Supplemental RI Work Plan – 2nd Phase.

1.9. The parties agree that the deadlines in the AOC shall be amended in accordance with the schedule described below.

II. REVISED SCHEDULE FOR INVESTIGATION AND CORRECTIVE ACTION

2.1. By January 24, 2011, Respondent shall begin the Supplemental RI Field Work described in the December 2, 2010 Revised Supplemental RI Work Plan - 2nd Phase.

2.2. By February 28, 2011, Respondent shall submit a Draft Supplemental RI Report to the EPA Project Coordinator.

2.3. Within 14 days of the date of receipt of EPA's comments on the Draft Supplemental RI Report, Respondent shall submit a Final Supplemental RI Report.

2.4. By June 15, 2011, Respondent shall conduct 2nd Quarter Groundwater Sampling as described in the Revised Supplemental RI Work Plan – 2nd Phase.

2.5. Within 28 days of conducting the 2nd Quarter Groundwater Sampling, Respondent shall submit a Draft 2nd Quarter Report to the EPA Project Coordinator.

2.6. Within 14 days of receipt of EPA's comments on the Draft 2nd Quarter Report, Respondent shall submit a Final 2nd Quarter Report to the EPA Project Coordinator.

2.7. Within 35 days of submittal of the Final 2nd Quarter Report, Respondent shall submit a Draft Corrective Action Plan.

2.8. Within 14 days of receipt of EPA comments on the Draft Corrective Action Plan, Respondent shall revise the Draft Corrective Action Plan to incorporate EPA's comments and submit a Proposed Corrective Plan to the EPA Coordinator.

2.9. After receipt of the Proposed Corrective Plan, EPA shall provide for public notice of the Proposed Corrective Plan in accordance with the public participation requirements in 40 C.F.R. § 280.67.

2.10. Within 60 days of EPA approval of the Final Corrective Action Plan, Respondent shall begin implementing the Final Corrective Action Plan.

2.11. In lieu of the quarterly progress reports described in paragraph 7.5 of the AOC, Respondent shall submit the reports described in this Section. Respondent shall submit a progress report six months after the date it begins to implement the Final Corrective Action Plan, and shall continue to submit progress reports every six months thereafter until implementation of the Final Corrective Action Plan is approved by EPA in writing.

III. EFFECTIVE DATE

3.1. The effective date of this Amendment to the AOC shall be the date on which it is signed by EPA.

IT IS SO AGREED AND ORDERED:

For UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

Dated: 3/14/2011


EDWARD J. KOWALSKI
Director
Office of Compliance and Enforcement

For RESPONDENT
R. H. DISTRIBUTING CO., INC.
SMITH

Dated: 2-28-11


DOUGLAS M. SMITH
President and CEO Secretary/Treasurer