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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

AUG 30 2002

T:EP:RA:T2
UIL:412-00-00

Re:

EIN:

Dear

This letter constitutes notice that your request of June 14, 2001, for a waiver of the minimum funding standard for the above-named plan for the plan year ending March 31, 2001 has been granted subject to the following conditions:

(1) By December 15, 2002, the company will make contributions to the plan in amounts sufficient to meet the minimum funding requirements for the plan for the plan year ending March 31, 2002.

(2) Beginning March 15, 2003 and every 3 months thereafter through December 15, 2004, the company will make quarterly contributions to the plan of not less than $50,000.

(3) The company will make contributions to the plan in amounts sufficient to meet the minimum funding requirements for the plan for the plan years ending March 31, 2003, and March 31, 2004, by December 15, 2003, and December 15, 2004, respectively.

You agreed to these conditions. If they are not satisfied, the waiver is retroactively null and void.

This conditional waiver has been granted in accordance with section 412(d) of the Code and section 303 of the Employee Retirement Income Security Act of 1974 (ERISA). Except for the amount determined under section 412(b)(2)(C) of the Code, the amount for which this waiver has been granted is the contribution that would otherwise be required to reduce the balance in the funding standard account to zero as of March 31, 2001.

The plan sponsor's primary business is as a liquid tank farm operator and lessor of dry cargo operations. As a liquid tank farm operator, the plan sponsor leases barrel space on a throughput basis to various customers for storage of petroleum and chemical products. The storage tank facilities owned by the plan sponsor have a million barrel capacity. As a lessor, the plan sponsor leases its dry cargo operations to another company.

Due to unique circumstances occurring in the oil industry over the last few years, the plan sponsor has lost considerable income from its tank farm operations. In February , the company lost a major customer who had leased million barrels of oil tank storage capacity. In August , the plan sponsor learned that, contrary to expectations, it had not been selected by the Department of Energy to receive an allocation of oil for the Strategic Petroleum Reserve. Furthermore, volatility in the oil markets resulted in a decrease in the demand for oil storage in 2000 and 2001. For the fiscal years ending in June and , the plan sponsor operated at a net loss of over $ in each year. The plan sponsor has also experienced cashflow problems during this same period.

However, the plan sponsor's financial outlook has recently improved. The market conditions for the storage of heating oil have improved. The plan sponsor entered into a lease agreement for oil storage with a major customer, and that lease has been renewed. Furthermore, the prospect for additional leases has improved, and the plan sponsor has been approached by a current lessee to increase the amount of storage it leases. As a result of this improved financial outlook, the plan sponsor has indicated that it will be able to begin funding the plan at the current time, and has agreed to the conditions described above. Hence, this conditional waiver of the minimum funding standard for the plan year ending March 31, 2001 has been granted.

The plan had an accumulated funding deficiency for the plan year ending March 31, 2000. Based on information submitted with the request, the excise tax under § 4971(a) has been paid by the plan sponsor for the tax year associated with this plan year.

Your attention is called to the following:

(1) Section 412(f)(1) of the Code describes the consequences which result in the event the plan is amended to increase benefits, to change the rate in the accrual of benefits, or to change the rate of vesting while any portion of the waived funding deficiency remains unamortized.

(2) Section 412(d) of the Code, as amended by section 9306(c)(1) of the Omnibus Budget Reconciliation Act of 1987, provides that the amortization charge described in section 412(b)(2)(C) must be computed by using an interest rate equal to the greater of the plan's valuation rate or 150% of the federal mid-term

rate. This provision is applicable to a request for a waiver made after December 17, 1987.

(3) Section 412(b)(2)(C) of the Code, as amended by section 9307(a)(1) of the Omnibus Budget Reconciliation Act of 1987, requires that, for plan years beginning after December 31, 1987, each waived funding deficiency must be amortized by equal annual installments over a period of 5 years. This provision is applicable to an amortization base established in a plan year beginning after December 31, 1987, as in this case for the waiver granted for the plan year ending March 31, 2001.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Internal Revenue Code provides that it may not be used or cited by others as precedent.

When filing Form 5500 for the plan year ending March 31, 2001, the date of this letter should be entered on Schedule B (Actuarial Information). For this reason, we suggest that you furnish a copy of this letter to the individual who is responsible for the completion of the Schedule B.

A copy of this letter is being sent to the Northeast Area Office in Brooklyn, New York. If you require further assistance in this matter, please contact , at (.

Sincerely yours,

Martin L. Pippins

Martin L. Pippins, Manager
Employee Plans Actuarial Group 2