UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB - 2 2012

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jeffrey David Gunselman, CEO
Absolute Fuels, LLC
4630 50th Street Suite 110
Lubbock, TX 79414

Re: Notice of Violation of Renewable Fuel Standards
File Number AED/MSEB # 7994

Dear Mr. Gunselman:

The Environmental Protection Agency (EPA or we) has commenced an investigation into Absolute Fuels, LLC's (Absolute's) compliance with Section 211(o) of the Clean Air Act (CAA) and the renewable fuels standards regulations promulgated thereunder at 40 C.F.R. Part 80, Subpart M (RFS2)[1]. The RFS2 regulations require refiners and importers (referred to as "obligated parties"), and exporters of renewable fuel to acquire sufficient Renewable Identification Numbers (RINs) to demonstrate compliance with their Renewable Volume Obligations (RVOs). The regulations include a credit trading program to facilitate compliance with the renewable fuel standards. The credit trading program allows obligated parties and exporters of renewable fuel to comply with their RVOs through the purchase of RINs.

Based upon the information available to EPA as a result of its investigation, EPA has determined that beginning at least August 31, 2010, through and including October 11, 2011, Absolute (Organization ID 3498 and Facility ID 80028) generated RINs with a D-Code of 4. EPA has determined that all RINs generated by Absolute during this period are invalid. The invalid RINs number 48,147,974. EPA has determined that Absolute violated 40 C.F.R. § 80.1460(b)(1) by generating RINs without producing the requisite volume of renewable fuel and violated 40 C.F.R. § 80.1460(b)(2) by creating or transferring to another person RINs that are considered invalid under 40 C.F.R. § 80.1431.

EPA issues this NOV pursuant to Sections 205 and 211 of the CAA, 42 U.S.C. §§ 7524 and 7545, for the violations identified above. Sections 205 and 211 of the CAA authorize EPA to assess a civil penalty of up to $37,500 for every day for each violation, plus the economic benefit or savings

[1] The RFS2 program was created pursuant to 75 Fed. Reg. 14,836 (Mar. 26, 2010). The final rule became effective July 1, 2010.

resulting from each violation. 42 U.S.C. §§ 7524, 7545(d); *see also* 40 C.F.R. §§ 19.4, 80.1461, 80.1463. In order to determine an appropriate penalty for each violation, EPA considers the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of your business, your history of compliance with the CAA, actions taken by you to remedy the violation and prevent future violations, the effect of the penalty on your ability to continue in business, and other matters as justice may require. 42 U.S.C. § 7524. This NOV does not create any rights or waive any of your obligations under the CAA, but rather is for the purpose of notifying you of the violations.

We are offering you an opportunity to confer with us about the violations alleged in this NOV. The conference will give you an opportunity to present information on the alleged violations, any efforts you have taken to comply, and the steps you will take to prevent future violations. By offering the opportunity for a conference, or participating in one, EPA does not waive or limit its right to any remedy available to it under the CAA.

The EPA attorney assigned to this matter is Robert Polin. He can be reached at (202) 564-6961, Polin.Robert@epa.gov, or at the following address:

Robert Polin, Attorney Adviser
EPA, Air Enforcement Division
1200 Pennsylvania Avenue, NW
Ariel Rios South Building, Mailcode 2242A
Washington, D.C. 20460 (20004 for non-USPS couriers)

We appreciate your attention to this important matter and look forward to working with you on a resolution.

Sincerely,

Phillip A. Brooks
Director
Air Enforcement Division

cc: Jeff Kodish, Fuels Team Leader