



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

APR - 5 2017

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Article Number: 7015 3010 0001 6837 9405

Jonathan L. Wade, Vice President
Stewart P. Wilson, Inc., d.b.a. Lakes Gas
P.O. Box 49
Watkins Glen, NY 14891

Re: Underground Storage Tank (UST) Compliance Inspections of
UST Facilities Owned/Operated by Stewart P. Wilson, Inc. d.b.a. Lakes Gas:
Corner Lake & Kimball Streets, Penn Yan, NY; NYSDEC Facility ID# 8-408085
101 South Franklin St., Watkins Glen, NY; NYSDEC Facility ID# 8-408093
2020 State Route 14, Montour Falls, NY; NYSDEC Facility ID# 8-408425
8280 State Route 54, Hammondsport, NY; NYSDEC Facility ID# 8-600899

Final Expedited Settlement
Docket No. RCRA-02-2017-7702

Dear Mr. Wade:

The U.S. Environmental Protection Agency (EPA) Region 2 is in receipt of Stewart P. Wilson's penalty payment of \$4,100, the signed Expedited Settlement Agreement, and the documentation that the USTs at the above referenced facilities are now in compliance. By signing the Expedited Settlement Agreement you have agreed to the terms of the Expedited Settlement Agreement and Final Order and have certified that all violations cited in the proposed Expedited Settlement Agreement were corrected.

Enclosed you will find a copy of the Expedited Settlement Agreement and Final Order issued by EPA. EPA has approved the Expedited Settlement Agreement based on your signed certification and supporting compliance documentation. EPA will take no further civil action against you for the violations listed in Proposed Expedited Settlement Agreement provided that all listed violations were timely corrected. EPA may choose to re-inspect the USTs located at Stewart P. Wilson, Inc.'s facilities and if EPA identifies any violations of federal UST regulations during the re-inspection or from any other information obtained by EPA, such findings would be Stewart P. Wilson, Inc.'s second violation of federal underground storage tank (UST) regulations. A second offense may result in a civil or judicial action which can include seeking penalties of up to \$22,587 per UST system per day of violation

U.S. Environmental Protection Agency
2017 MAY 11 PM 12:03
RECEIVED
CLERK

If you have any questions regarding this letter or any other related matter, please contact me at (212) 637-4237 or by e-mail at sacker.paul@epa.gov. Thank you for your cooperation.

Sincerely,



Steve Carrea, Acting Team Leader
UST Team

Enclosure

cc: Russ Brauksieck
NYSDEC
Chief – Facility Compliance Section
Division of Environmental Remediation
625 Broadway 11th Floor
Albany, NY 12233-7020

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION II

U.S. Environmental
Protection Agency Region II
2017 MAY 11 PM 12:04
COLUMBIA COUNTY

IN THE MATTER OF:)
)
)
 Stewart P. Wilson, Inc.)
 d.b.a)
 Lakes Gas)
)
 Respondent)
)
)
)

Docket No. RCRA-02-2017-7702

**EXPEDITED SETTLEMENT
AGREEMENT AND
FINAL ORDER**

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency (“EPA”) has determined that Stewart P. Wilson, Inc., d.b.a. Lakes Gas (“Lakes Gas” or “Respondent”), owner and operator of the Underground Storage Tanks (“USTs”) at facilities located at Lakes Gas, Corner Lake & Kimball Streets, Penn Yan, NY facility (“Penn Yan Facility”); Lakes Gas, 101 South Franklin St. Watkins Glen, NY (“Watkins Glen Facility”); Lakes Gas, 2020 State Route 14, Montour Falls, NY (“Montour Falls Facility”); and Lakes Gas, 8280 State Route 54, Hammondsport, NY (“Hammondsport Facility”), collectively known as the “Facilities,” failed to comply with the following requirement(s) of Subtitle I of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6991 *et seq.*, and its implementing regulations at 40 C.F.R. Part 280.
 - a. 40 C.F.R. Part 280.45(c) requires that owner/operators of UST systems maintain written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site for at least one year after the servicing work is completed, or for another reasonable time period determined by the implementing agency. During EPA's review of Respondent's April 20, 2016, response to EPA's information request letter dated March 22, 2016, (“the IRL”), an EPA enforcement officer noted that in response to Question 16 Respondent provided documentation of active alarms noted by the Veeder Root on September 12, 2015, and September 13, 2015, for the Penn Yan Facility. Both readouts show L 6 Fuel Alarm but no historical written documentation was provided to explain what these alarms were or to show how they were addressed. Respondent's June 24, 2016 and August 8, 2016 responses to EPA's second IRL, dated June 6, 2016, indicate that while Respondent determined that the alarms were from storm water in the diesel fuel sump and were corrected once the water was removed, no records of the actual investigation or repair were maintained on site after the time of the maintenance and repair. As a result of EPA's inquiries, Respondent committed to improve its recordkeeping practices to include a log of any leak detection equipment and its investigation results. Failure to maintain written documentation of maintenance and repair of a release detection system as a result of the September 12 and 13, 2015 fuel alarms is a violation of 40 C.F.R. §280.45(c).

b. 40 C.F.R. Part 280.93(a) requires that all UST system owners and operators must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks. The EPA enforcement officer noted that while Lakes Gas, owner/operator of all of the facilities referenced above, had general insurance liability policies for the four Facilities, it provided inadequate coverage. Respondent indicated in its April 20, 2016 IRL response that it thought it had met the financial responsibilities requirement for 40 C.F.R. Part 280.93(a) through the New York State Spill Fund. EPA's June 6, 2016 IRL further inquired as to the status of insurance for Respondent's USTs. In its August 8, 2016 IRL response, Respondent provided insurance policies, effective August 8, 2016 for all of the above referenced facilities with adequate coverage as required by 40 C.F.R. Part 280.93(a). Respondent's failure to maintain adequate financial responsibility for its USTs prior to August 8, 2016 is a violation of 40 C.F.R. §280.93(a).

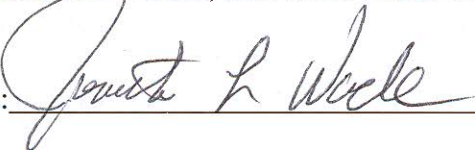
2. The EPA and the Respondent agree that settlement of this matter for a penalty of \$4,110 without further proceedings is in the public interest.
3. The EPA is authorized to enter into this Expedited Settlement Agreement and Final Order ("Agreement") pursuant to section 9006 of RCRA and 40 C.F.R. § 22.13(b) and § 22.18(b)(2).
4. In signing this Agreement, the Respondent: (1) admits that the Respondent is subject to requirements listed above in Paragraph 1, (2) admits that the EPA has jurisdiction over the Respondent and the Respondent's conduct as described herein, (3) neither admits nor denies the factual determinations contained herein, (4) consents to the assessment of the penalty in paragraph (2) above, and (5) waives any right to contest the determinations contained herein.
5. By its signature below, the Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it has: (1) corrected the violations described above, (2) submitted true and accurate documentation of those corrections, (3) provided a deposit for full payment of the civil penalty in Paragraph 2 above in accordance with the EPA penalty collection procedures provided to the Respondent, (4) submitted true and accurate proof of deposit for full payment of the civil penalty with this Agreement, and (5) agreed to release the deposit for full payment to the EPA upon entry of this Order.
6. Full payment of the penalty in Paragraph 2 shall only resolve Respondent's liability for federal civil penalties for the violation(s) and facts described in Paragraph 1, above. Full payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
7. Upon signing and returning this Agreement to the EPA, the Respondent waives the opportunity for a hearing or appeal pursuant to Section 9006(b) of RCRA or 40 C.F.R. Part 22.
8. Each party shall bear its own costs and fees, if any.
9. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

IT IS SO AGREED,

RESPONDENT:


Name of individual signing (print): JONATHAN L. WADE

Title: VICE-PRESIDENT
Stewart P. Wilson, Inc. d.b.a. Lakes Gas

Signature: 

Date: 3/22/17

APPROVED BY EPA:



Kathleen Anderson, Acting Director
Division of Enforcement and Compliance Assistance

Date 3/28/17

Stewart P. Wilson, Inc., d.b.a. Lakes Gas
Docket No. RCRA-02-2017-7702

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Expedited Settlement Agreement (“Agreement”). This Agreement, entered into by the parties to this matter, is hereby approved, incorporated herein, and issued as an Order pursuant to Section 9006 of the Act and 40 C.F.R. § 22.18(b)(3). The Effective Date of this Order shall be the date of its filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 2, New York, New York. 40 C.F.R. § 22.31(b).

BY: *Helen Ferrara*
Helen Ferrara
Regional Judicial Officer
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007-1866

DATE: *March 29, 2017*