

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	Docket No. RUST-05-2023-0006
)	
United States Army)	
Fort McCoy Military Installation)	EXPEDITED SETTLEMENT
Fort McCoy, Wisconsin)	AGREEMENT AND
Respondent)	FINAL ORDER
)	
)	
)	

EXPEDITED SETTLEMENT AGREEMENT

1. Based on an inspection conducted on June 7, 2022, the U.S. Environmental Protection Agency (“EPA”) alleges that the United States Army (“Respondent”), owner or operator of the Underground Storage Tanks (USTs) at the Fort McCoy Military Installation, Fort McCoy, Wisconsin, failed to comply with the following requirement 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. § 280.35(a)(1) Failure to periodically test spill prevention equipment (Airfield USTs), proposed penalty \$940,
 - b. 40 C.F.R. § 280.41(a) Failure to monitor tanks every 30-days (IMMA & Central Fueling USTs), proposed penalty \$940,
 - c. 40 C.F.R. § 280.36(a) Failure to conduct periodic walkthrough inspections every thirty days (IMMA & Central Fueling USTs), proposed penalty \$940,
 - d. 40 C.F.R. § 280.241(a) Failure to designate a class A operator (IMMA & Central Fueling USTs), proposed penalty \$940, and
 - e. 40 C.F.R. § 280.241(a) Failure to designate a class B operator (IMMA & Central Fueling USTs), proposed penalty \$940.

The total proposed penalty is therefore \$4,700.

2. EPA and Respondent agree that settlement of this matter for a penalty of **\$4,700** is in the public interest.
3. 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).
4. In signing this Agreement, Respondent: (1) admits that it is subject to requirements listed in Paragraph 1, above; (2) admits that EPA has jurisdiction over Respondent and Respondent’s conduct as alleged herein; (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; and

- (5) waives any right to contest the allegations contained herein.
5. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that Respondent has: (1) corrected the alleged violations, (2) submitted true and accurate documentation of those corrections, (3) provided a deposit for 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 payment of the civil penalty with this Agreement, and (5) agrees to release the deposit for payment to the EPA upon entry of this Order.
 6. Upon filing, this Agreement shall constitute full settlement of the violations alleged herein.
 7. EPA reserves all of its rights to take enforcement actions for any other past, present or future violations by Respondent of RCRA, any other federal statute or regulation, or against any violations alleged to have been corrected pursuant to this Agreement that were not corrected.
 8. Upon signing and returning this Agreement to EPA, Respondent waives any and all remedies, claims for relief and other available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Agreement including the opportunity for a hearing or appeal pursuant to section 9006(b) of RCRA, 42 U.S.C. § 6991e(b), or 40 C.F.R. Part 22.
 9. Full payment of the penalty in Paragraph 2 shall only resolve Respondent's liability for federal civil penalties under section 9006(d) of RCRA, 42 U.S.C. § 6991e(d), for the violation(s) and facts described in Paragraph 1. Full payment of this penalty shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
 10. No portions of the civil penalty or interest paid by Respondent pursuant to the requirements of this agreement shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.
 11. If Respondent does not timely pay the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States' enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalties are not reviewable in a collection action.
 12. EPA reserves all of its rights to take enforcement actions for any other past, present or future violations by Respondent of RCRA, any other federal statute or regulation or this Agreement.
 13. Each party shall bear its own costs and fees, if any.

14. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.
15. The parties consent to electronic signature and service of this Expedited Settlement Agreement and Final Order. Service by email will be at the following valid e-mail addresses: Cisneros.Arturo@EPA.GOV for Complainant, and brent.a.friedl.civ@army.mil (for Respondent).

IT IS SO AGREED,

Name (print): STEPHEN T. MESSENGER

Title (print): COL, LG Commanding

Signature: MESSENGER.STEPHEN.TIMOTHY.N.TIMOTHY.1239196396
Digitally signed by MESSENGER.STEPHEN.TIMOTHY
:1239196396
Date: 2022.12.05 17:00:29 -06'00'

Date: 05 December 2022

APPROVED BY EPA:

MICHAEL HARRIS
Digitally signed by MICHAEL HARRIS
Date: 2022.12.12 14:51:55 -06'00'

Date: _____

Michael D. Harris, Director
Enforcement and Compliance Assurance Division
United States Environmental Protection Agency
Region 5

In the Matter of:
United States Army, Fort McCoy Military Installation
Docket No. RUST-05-2023-0006

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

ANN COYLE

Digitally signed by ANN COYLE
Date: 2022.12.14 13:54:11
-06'00'

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5