



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 2
 290 BROADWAY
 NEW YORK, NY 10007-1866

AUG 13 2018

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Article Number: 7016 1370 0001 3671 2559

Mr. Carl Hasselback, President
 White Arrow Service Stations, Inc.
 2125 Walden Ave
 Cheektowaga, NY 14225

Re: Underground Storage Tank (UST) Compliance Inspection of;

Valero 362 West Main St. Rochester, NY 14608 NYSDEC Facility ID#: 8-298433	Jim's Trucking Plaza 2115 Walden Ave, Cheektowaga, NY 14225 NYSDEC Facility ID#: 9-382787
Hassleback Oil Co., Inc. 755 East Delavan Ave. Buffalo, NY 14214 NYSDEC Facility ID# 9-073555	Spirits Spot, Inc. 4933 Main St. Amherst, NY 14221 NYSDEC Facility ID#: 9-125199
Oasis Convenience, Inc, 2437 Harlem Road Cheektowaga, NY, 14225 NYSDEC Facility ID#: 9-382345	Sun Car Wash 3958 Lockport-Olcott Road Lockport, NY 14094 NYSDEC Facility ID#: 9-461377
Orchard Pk. Sunoco 3388 Southwestern Blvd. Orchard Park, NY 14127 NYSDEC Facility ID# 9-382779	NOE Place 708 East Second St. Jamestown, NY 14701 NYSDEC Facility ID#: 9-600567

Final Expedited Settlement Agreement
 Docket No. RCRA-02-2018-7701

Dear Mr. Hasselback:

The U.S. Environmental Protection Agency (EPA) Region 2 is in receipt of White Arrow Service Stations, Inc.'s penalty payment of \$11,900, 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

U.S. Environmental Protection Agency-Region 2
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 REGIONAL OPERATIONS CENTER

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 White Arrow Service Stations, Inc.'s or facilities or those of its affiliates 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 White Arrow Service Stations, Inc.'s, or its affiliates, 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 \$23,426 per UST system per day of violation.

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

Sincerely,

Handwritten signature in blue ink, appearing to read "Claudia Gutierrez For CG".

Claudia Gutierrez, 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**

IN THE MATTER OF:

Carl Hasselback
White Arrow Service Stations, Inc.
Hasselback Oil Co., Inc.
Hasselback Equipment, Inc.
364 West Main St., Inc.
Spirits Spot, Inc.
3958 Car Wash LLC

Respondents

Docket No. RCRA-02-2018-7701

**EXPEDITED SETTLEMENT
AGREEMENT AND
FINAL ORDER**

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency (“EPA”) has determined that the above-captioned Respondents, are owners and/or operators of the Underground Storage Tanks (“USTs”) at the following facilities:

Valero Gas Station 362 West Main St. Rochester, NY 14608 NYSDEC Facility ID#: 8-298433	Jim's Trucking Plaza 2115 Walden Ave, Cheektowaga, NY 14225 NYSDEC Facility ID#: 9-382787
Hasselback Oil Co., Inc. 755 East Delavan Ave. Buffalo, NY 14214 NYSDEC Facility ID# 9-073555	Spirits Spot, Inc. 4933 Main St. Amherst, NY 14221 NYSDEC Facility ID#: 9-125199
Oasis Convenience, Inc. 2437 Harlem Road Cheektowaga, NY, 14225 NYSDEC Facility ID#: 9-382345	Sun Car Wash 3958 Lockport-Olcott Road Lockport, NY 14094 NYSDEC Facility ID#: 9-461377
Orchard Pk. Sunoco 3388 Southwestern Blvd. Orchard Park, NY 14127 NYSDEC Facility ID# 9-382779	NOE Place 708 East Second St. Jamestown, NY 14701 NYSDEC Facility ID#: 9-600567

An EPA enforcement officer noted that 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. § 280.41(a) requires owners and operators of underground storage tanks to conduct monthly release detection of their USTs every 30 days. Under 40 C.F.R. § 280.43, one of the methods approved by EPA to conduct monthly release detection is ground water monitoring.

However, such monitoring requires that the well system meet the full requirements of 40 C.F.R. § 280.43(f) as follows:

- 1.) Groundwater is never more than 20 feet from the ground surface and the hydraulic conductivity of the soil(s) between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials);
- 2.) The slotted portion of the monitoring well casing is designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;
- 3.) Monitoring wells are sealed from the ground surface to the top of the filter pack;
- 4.) Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;
- 5.) The continuous monitoring devices or manual methods used can detect the presence of at least one-eighth of an inch of free product on top of the groundwater in the monitoring wells;
- 6.) Within and immediately below the UST system excavation zone, the site has been professionally assessed to ensure compliance with the requirements in 40 C.F.R. 280.43(f) and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product; and
- 7.) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

During the November 25, 2013 UST inspection of the facility located at 3388 Southwestern Blvd., Orchard Park, NY, the inspector reported that groundwater monitoring is used for monthly release detection for the four USTs. However, the inspector was unable to verify whether the groundwater monitoring well system was designed in accordance with 40 C.F.R. §280.43(f). Respondent's June 10, 2016 response to EPA's March 31, 2016 Information Request Letter ("IRL") only provided a simple drawing and written statement that the groundwater monitoring wells meet the requirements, but provided no professional documentation such as initial site assessment or an engineer's evaluation. Additionally, an August 30, 2016 New York State Department of Environmental Conservation ("NYSDEC") UST inspection of the facility confirmed that it had inadequate documentation to demonstrate that the ground water monitoring system was adequate for release detection monitoring. Therefore, Respondents' failure to demonstrate an adequate ground water monitoring well system for monthly monitoring of the tanks at this facility from at least November 25, 2013 through the present is a violation of 40 C.F.R. § 280.41(a).

- b.) 40 C.F.R. §280.93(a) requires owners and operators of petroleum underground storage tanks to 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 in at least the per-occurrence amounts specified in the regulation. During the Inspections the inspector was not provided any evidence that the USTs at each facility was insured for third party bodily injury under the financial responsibility requirements of 40 C.F.R. §280.93(a). Respondents' June 27, 2016 reply to EPA's March 31, 2016 IRL, stated that they were of the misunderstanding that the New York State Spill Fund covered their tanks, they were previously unaware of the need for additional insurance, and that they had acquired third party bodily injury liability insurance on January 18, 2016 for all facilities except the Lockport facility. Additionally, Respondents' December 26, 2016 IRL response confirms that the Lockport facility remains uninsured due to the difficulty of getting any vendor to insure an unused UST. Therefore, Respondents' failure to have proper financial responsibility covering third party bodily injury liability for the twenty-six USTs at their eight facilities (from at least November 25, 2013 through January 18, 2016 for seven of the facilities and to the present for one (Lockport, NY)) is a violation of 40 C. F. R. § 280.93.

2. The EPA and the Respondents agree that settlement of this matter for a penalty of \$11,900 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 Respondents: (1) admit that the Respondents are subject to requirements listed above in Paragraph 1; (2) admit that the EPA has jurisdiction over the Respondents and the Respondents' conduct as alleged herein; (3) neither admit nor deny the factual determinations contained herein; (4) consent to the assessment of this penalty; and, (5) waive any right to contest the determinations contained herein.
5. By its signature below, the Respondents certify, subject to civil and criminal penalties for making a false submission to the United States Government, that they have: (1) corrected the alleged violations, (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 Respondents, (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 Respondents' 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 Respondents waive 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 with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 2, New York, New York. Respondent Carl Hasselback hereby

Carl Hasselback, White Arrow Service Stations, Inc., et al.
Docket No, RCRA-02-2018-7701

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed Expedited Settlement Agreement and Final Order bearing docket number RCRA-02-2018-7701, in the following manner to the respective addressees listed below:

Original and Copy
By Hand Delivery:

Office of the Regional Hearing Clerk
U.S. Environmental Protection
Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

Copy by Certified Mail/#:
Return Receipt Requested:

Mr. Carl Hasselback, President
White Arrow Service Stations, Inc.
2125 Walden Ave
Cheektowaga, NY 14225

Dated: August 13, 2018

Mary C Payne