



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

OCT 23 2018

2018 OCT 23 PM 2:00
REGIONAL CLERK

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7016 1370 0001 3671 3006

Kulpid Patel, Owner
Meera One, LLC d/b a Lotus Farms
55 Stem Road
Seaman, OH 45679

RE: Meera One, LLC d/b/a Lotus Farms
13 Lake Street
Le Roy, NY 14482
NYSDEC Facility ID# 8-390550

Final Expedited Settlement
Docket No. RCRA-02-2018-7704

Dear Mr. Patel:

The U.S. Environmental Protection Agency (EPA) Region 2 is in receipt of Meera One, LLC's penalty payment of \$7,510, 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 Meera One, LLC'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 Meera One, LLC'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 \$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,

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**

RECEIVED REGION II
OFFICE OF THE REGIONAL ADMINISTRATOR
2018 OCT 23 PM 2:00
U.S. Environmental Protection Agency
Region II
100 South Washington Street
Albany, NY 12242-3500
Tel: 518/487-2300
Fax: 518/487-2301

IN THE MATTER OF:)
)
Meera One, LLC d/b/a Lotus Farms)
)
Respondent)
)
)
)
)
)

Docket No. RCRA-02-2018-7704

**EXPEDITED SETTLEMENT
AGREEMENT AND
FINAL ORDER**

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency (“EPA”) has determined that Meera One LLC, d/b/a Lotus Farms (henceforth the “Respondent” or “Meera”), owner and operator of the Underground Storage Tanks (“USTs”) and the Lotus Farms facility, located at 13 Lake St., LeRoy, NY (the “Facility”), 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 UST systems to monitor them monthly for releases using one of the approved methods listed in 40 C.F.R. § 280.43. Additionally, 40 C.F.R. §280.50(c) requires that owners and operators of USTs report to the implementing agency within 24 hours or another reasonable time period specified by the implementing agency (for this requirement, the implementing agency is the New York State Department of Environmental Conservation (“NYSDEC”), which has set a 2 hour time period) any monitoring results from an interstitial monitor that indicate a release may have occurred unless (1) the monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result or (2) The leak is contained in the secondary containment and (i) Except as provided for in §280.43(g)(2)(iv), any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine filled) is immediately removed; and (ii) Any defective system equipment or component is immediately repaired or replaced. 40 C.F.R. § 280.52(a) further requires that owners and operators investigate and confirm all suspected releases of regulated substances requiring reporting under §280.50 within 7 days, or another reasonable time-period specified by the implementing agency (NYS DEC requires this to be done within 48 hours), using techniques laid out in the regulations.

During the March 24, 2017 UST Inspection of the Facility, the Inspector noted that monthly release detection of the diesel fuel UST was conducted through electronic interstitial monitoring (EIM) via an Incon TL-550. However, the records for the diesel fuel UST continually showed that it was in an alarm status for the twelve months prior to the

inspection. EPA's October 10, 2017 IRL-NOV requested that Meera provide documentation of what this status means. EPA requested in the IRL-NOV that Meera provide documentation that any suspected release was reported to the New York State Department of Environmental Conservation (NYS DEC) as required by 40 C.F.R. § 280.50 and advise what steps Meera had taken to address the release. Finally, EPA asked if the alarm was determined to be from a system malfunction or other fault with the release detection method, that Meera provide documentation of the steps it has taken to correct the error including all maintenance logs, alternative release detection records collected during the period there was an alarm, invoices for any repairs or replacement parts, and provide an explanation for why the alarm status continued for a period of at least an entire year.

Meera's October 30, 2017 IRL-NOV response only provided printouts from the Incon system showing that the diesel fuel EIM remained in an alarm status from March 2017 through July 2017 and a statement that "*There were no suspected releases during this time frame. UST 4 has shown alarm for missing float but it comes back on its own again. However, there was no <sic> any suspected release found on EIM reports and 10-day reconciliation reports either.*" The only alternative release detection method Meera alluded to was a 10-day inventory control reconciliation, which, due to the age of the USTs at the facility (over ten years old), is not an approved method of release detection under Federal regulations.

Respondent's failure to conduct appropriate release detection monitoring for the diesel fuel UST from at least April 2016 through July 2017 is a violation of 40 C.F.R. § 280.41(a). Additionally, Respondent's failure to report and to investigate a suspected release into an interstitial space of an UST from at least April 2016 through July 2017 are violations of 40 C.F.R. § 280.50(c) and § 280.52(a), respectively.

- b) 40 C.F.R. § 280.45 requires owners and operators of USTs to maintain monthly records of release detection monitoring for at least twelve months. During the March 24, 2017 UST Inspection of the Facility, the Inspector noted that the three gasoline USTs tanks were monitored for releases monthly via an Incon TS-550 conducting statistical continuous automatic leak detection (SCALD). However, the Inspector was not provided monthly release detection records for the three gasoline USTs for the months of April, May, August, October, November and December 2016 and January 2017. EPA's October 10, 2017 IRL-NOV requested that Meera provide copies of the missing records for the three gasoline USTs. Meera indicated in its October 30, 2017 response to the IRL-NOV that it was unable to locate the missing records for the time-period requested. Therefore, Respondent's failure to maintain seven months of monthly release detection records for the three gasoline USTs over the period of April 2016 through January 2017 is a violation of 40 C.F.R. § 280.45.
- c) 40 C.F.R. § 280.93(a) requires that all UST system owners or 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. During the March 24, 2017 UST Inspection of the Facility, the Inspector noted that financial responsibility for the five USTs was provided by an insurance policy from Crum & Forster Specialty Insurance Company. However, this policy expired on March 11, 2016, more than a year prior to the inspection. EPA's

October 10, 2017 IRL-NOV requested that Meera provide documentation that Meera One LLC had covered the five USTs at the Facility for financial responsibility including, at the least, coverage for third party bodily injury liability, for the period of March 12, 2016 through receipt of the IRL (October 13, 2017). Meera's October 30, 2017 IRL-NOV confirmed that it had not renewed its insurance policy and did not have the required financial responsibility coverage for the USTs until its business closed in July 2017. In the October 30, 2017 response to the IRL-NOV, Meera provided documentation that it remained the currently registered owner of the USTs; even while the USTs were in a state of temporary closure, they still required financial responsibility coverage. Meera's failure to maintain financial responsibility, including third party bodily injury liability coverage, for its five USTs from at least March 11, 2016 through at least July 2017 (and possibly through the date of their permanent closure on November 30, 2017) is a violation of 40 C.F.R. § 290.93(a).

2. The EPA and the Respondent agree that settlement of this matter for a penalty of **\$7,510**, 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 Respondent 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 the date of its filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 2, New York, New York.

IT IS SO AGREED,

RESPONDENT:

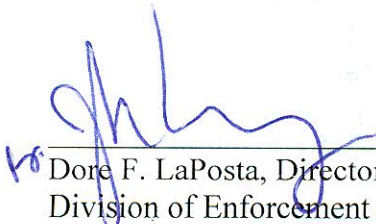
Name of individual signing (print): KULDIP PATEL 9/25/18

Title: MEMBER
Meera One LLC, d/b/a Lotus Farms

Signature: 

Date: 9/25/18

APPROVED BY EPA:


Dore F. LaPosta, Director
Division of Enforcement and Compliance Assistance

Date 10/3/18

Meera One LLC, d/b/a Lotus Farms and
Docket No. RCRA-02-2018-7704

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: October 18, 2018

Meera One, LLC d/b/a Lotus Farms
Docket No, RCRA-02-2018-7704

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-02-2018-7704, 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:

Kulpid Patel, Owner
Meera One, LLC d/b a Lotus Farms
55 Stem Road
Seaman, OH 45679

Dated: October 23, 2018

Mary C Cosgrove