

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

U.S. EPA-REGION 3-RHC
FILED-14MAR2019pm1:07

IN THE MATTER OF:

Bedford Valley Petroleum Bulk Plant
1 Potomac Street
Cumberland, MD 21502

Facility,

Bedford Valley Petroleum Corp.
10228 Lincoln Highway
Everett, PA 15537

Respondent.

Docket No.: RCRA-03-2019-0060

**EXPEDITED SETTLEMENT
AGREEMENT AND FINAL ORDER**

EXPEDITED SETTLEMENT AGREEMENT

1. This Expedited Settlement Agreement (“Agreement”) is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“EPA” or “Complainant”), and Bedford Valley Petroleum Corp. (“Respondent”), pursuant to Section 9006 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. § 6991e, and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and (3)).
2. EPA alleges that Respondent, owner and/or operator of the underground storage tanks located at the Bedford Valley Petroleum Bulk Plant, 1 Potomac Street, Cumberland, Maryland (“Facility”), failed to comply with specific requirements of Subtitle I of RCRA, 42 U.S.C. §§ 6991 *et seq.*, its implementing regulations at 40 C.F.R. Part 280, and the federally authorized State of Maryland’s UST management program regulations set forth in the Code of Maryland Regulations (“COMAR”), Title 26, Subtitle 10 *et seq.*
3. EPA has jurisdiction over the above-captioned matter pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, and 40 C.F.R. §§ 22.1(a)(4) and 22.4 of the Consolidated Rules of Practice.
4. Respondent is a “person” as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), COMAR § 26.10.02.04(42), and is the “operator” and/or “owner” of “underground storage tanks” (“USTs”) and “UST systems,” located at the Facility, as those terms are defined in Sections 9001(3), (4) and (10) of RCRA, 42, U.S.C. §§ 6991(3), (4), and (10); 40 C.F.R. § 280.12; and COMAR § 26.10.02.04.

5. At the time of the August 21, 2018 Compliance Evaluation Inspection, and at all times relevant to the applicable violations alleged herein, two USTs compartmentalized into 4 sections each, as described in the following subparagraphs, were located at the Facility:
- A. A three thousand (3,000) gallon tank section that was installed in or about January 1988, and that, at all times relevant hereto, routinely contained lubricating oil (as defined as “Coastal 10 30”), a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42. U.S.C. § 6991(7), and COMAR § 26.10.02.04(48) (hereinafter “UST No. 1”).
 - B. A three thousand (3,000) gallon tank section that was installed in or about January 1988, and that, at all times relevant hereto, routinely contained lubricating oil (as defined as “Coastal 10W”), a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42. U.S.C. § 6991(7), and COMAR § 26.10.02.04(48) (hereinafter “UST No. 2”).
 - C. A three thousand (3,000) gallon tank section that was installed in or about January 1988, and that, at all times relevant hereto, routinely contained lubricating oil (as defined as “QS 5W 30”), a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42. U.S.C. § 6991(7), and COMAR § 26.10.02.04(48) (hereinafter “UST No. 3”).
 - D. A three thousand (3,000) gallon tank section that was installed in or about January 1988, and that, at all times relevant hereto, routinely contained lubricating oil (as defined as “PZ 10W 30”), a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42. U.S.C. § 6991(7), and COMAR § 26.10.02.04(48) (hereinafter “UST No. 4”).
 - E. A three thousand (3,000) gallon tank section that was installed in or about January 1988, and that, at all times relevant hereto, routinely contained lubricating oil (as defined as “PZ 5W 30”), a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42. U.S.C. § 6991(7), and COMAR § 26.10.02.04(48) (hereinafter “UST No. 5”).
 - F. A three thousand (3,000) gallon tank section that was installed in or about January 1988, and that, at all times relevant hereto, routinely contained lubricating oil (as defined as “PZ 5W 20”), a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42. U.S.C. § 6991(7), and COMAR § 26.10.02.04(48) (hereinafter “UST No. 6”).
 - G. A three thousand (3,000) gallon tank section that was installed in or about January 1988, and that, at all times relevant hereto, routinely contained lubricating oil (as defined as “PZ 5W 30”), a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42. U.S.C. § 6991(7), and COMAR § 26.10.02.04(48) (hereinafter “UST No. 7”).
 - H. A three thousand (3,000) gallon tank section that was installed in or about January 1988, and that, at all times relevant hereto, routinely contained lubricating oil (as defined as “SHELL 5 30”), a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42. U.S.C. § 6991(7), and COMAR § 26.10.02.04(48) (hereinafter “UST No. 8”).
6. EPA has identified the following violations:

- For the months of July 2017, September 2017, November 2017, December 2017, January 2018, and February 2018, Respondent failed to conduct timely tank release detection for each of its USTs as required by COMAR § 26.10.05.02(B).
 - From at least August 21, 2018 until December 10, 2018, Respondent failed to have functioning overfill prevention equipment on UST No. 1 as required by COMAR § 26.10.03.01(D)(1)(b).
7. The EPA and the Respondent agree that settlement of this matter for a penalty of **\$8,460.00** is in the public interest, and has been calculated in accordance with the statutory factors set forth in Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), and the Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations and Revised Field Citation Program and ESA Pilot, effective October 5, 2018.
 8. Respondent agrees that within 30 days of the effective date of this Agreement (the date it is filed with the Regional Hearing Clerk), Respondent shall submit a check with the case name, address and docket number of this Agreement (RCRA-03-2019-0060), for the amount specified above, payable to “**United States Treasury**,” U.S. Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000.

Copies of the payment are to be sent to:

Melissa Toffel, UST Compliance Officer
U.S. EPA Region III (Mail Code 3LC31)
1650 Arch Street
Philadelphia, PA 19103; and,

Regional Hearing Clerk
U.S. EPA Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029.

9. In signing this Agreement, the Respondent: admits the jurisdictional allegations set forth in this Agreement; neither admits nor denies the specific factual allegations and conclusions of law set forth in this Agreement, except as provided in the jurisdictional admission above; agrees not to contest EPA’s jurisdiction with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement the Agreement; expressly waives its right to a hearing on any issue of law or fact set forth in this Agreement and any right to appeal the accompanying Final Order; consents to the issuance of the Agreement and agrees to comply with its terms; and bear its own costs and attorney’s fees.
10. By its signature below, the Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that he or she has: (1) corrected the alleged violations, and (2) submitted true and accurate documentation of those corrections.

- 11. This Agreement and attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations alleged in this Agreement.
- 12. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.
- 13. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.
- 14. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind Bedford Valley Petroleum Corp. to this Agreement.

IT IS SO AGREED,

Name (print): ROBERTA M. W.

Title (print): PRESIDENT

Signature: [Handwritten Signature]

Date 3-5-19

APPROVED BY EPA:

3.13.19
Date

[Handwritten Signature]
John A. Armstead, Director
Land and Chemicals Division

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Philadelphia, Pennsylvania 19103-2029**

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**EXPEDITED SETTLEMENT
AGREEMENT AND FINAL ORDER**

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and the above-captioned Respondent have executed a document entitled "Expedited Settlement Agreement," which I hereby ratify as a Consent Agreement in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Expedited Settlement Agreement are accepted by the undersigned and incorporated herein as if set forth at length.


Based upon the representations of the parties in the attached Expedited Settlement Agreement, the eight thousand four hundred and sixty dollar (\$8,460.00) penalty agreed to therein was based upon consideration of the statutory factors set forth in 9006(c) of RCRA,

42 U.S.C. § 6991e(c) and the Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations and Revised Field Citation Program and ESA Pilot, effective October 5, 2018.

WHEREFORE, pursuant to Section 9006 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. Section 6991e, and Section 22.18(b)(2) and (3) of the Consolidated Rules of Practice, and having determined, based upon the representations of the parties in the attached Expedited Settlement Agreement, that the civil penalty agreed to therein was based upon consideration of the factors set forth in Section 9006(c) of RCRA, 42 U.S.C. 6991e(c), and the Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations and Revised Field Citation Program and ESA Pilot, effective October 5, 2018, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of Eight Thousand Four Hundred and Sixty Dollars (\$8,460.00) in accordance with the payment provisions set forth in the attached Expedited Settlement Agreement and comply with the terms and conditions as specified in the attached Expedited Settlement Agreement.

The effective date of the foregoing Expedited Settlement Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

3-14-2019
Date



Joseph J. Lisa
Regional Judicial Officer
U.S. EPA - Region III

Expedited Settlement Agreement
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Docket Number: RCRA-03-2019-0060

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CERTIFICATE OF SERVICE

I certify that on MAR 14 2019, the original and one (1) copy of foregoing Consent Agreement and Final Order, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copy served via Certified Mail, Return Receipt Requested, Postage Prepaid, to:

Candie Calhoun, Environmental Compliance
Bedford Valley Petroleum Corp.
10228 Lincoln Highway
Everett, PA 15537

Copy served via Hand Delivery or Inter-Office Mail to:

Melissa Toffel
UST Compliance Officer
Land & Chemicals Division (Mail Code 3LC31)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Dated: MAR 14 2019

Bethina L. Durin

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III

TRACKING NUMBER(S): 1Z A43 F71 A29731 5989



