



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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2017 DEC -4 PM 2:34

FILED  
EPA REGION VIII  
HEARING CLERK

DOCKET NO.: RCRA-08-2018-0001

IN THE MATTER OF:

ANTHONY ISBURG  
D.B.A SHELBY'S MINI MART

RESPONDENT

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FINAL ORDER

Pursuant to 40 C.F.R. § 22.13(b) and §§ 22.18(b)(2) and (3) of EPA's Consolidated Rules of Practice, the Expedited Settlement Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon filing this Expedited Settlement Agreement and Final Order.

SO ORDERED THIS 4<sup>th</sup> DAY OF December, 2017.

  
Katherin E. Hall  
Regional Judicial Officer

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2017 DEC -4 PM 2: 34

FILED  
EPA REGION VIII  
HEARING CLERK

IN THE MATTER OF: )

Docket No. RCRA-08-2018-0001

Anthony Isburg, )  
d.b.a Shelby's Mini Mart )  
EPA ID No. 4010011 )  
Respondent. )

**EXPEDITED SETTLEMENT AGREEMENT**

1. The U.S. Environmental Protection Agency (EPA) alleges that Anthony Isburg (Respondent), owner and/or operator of the Underground Storage Tank(s) (USTs) at 302 SD Hwy 249, Fort Thompson, South Dakota 57339 (UST Facility), 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, during an inspection on September 14, 2016:

40 CFR § 280.31(b)(1) – Failure to ensure that cathodic protection (CP) system is tested every 3 years thereafter. The last passing CP test was conducted on July 1, 2013, expiring on July 1, 2016. The Facility's CP test had lapsed 75 days as of the date of inspection.

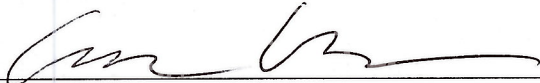
2. The EPA and the Respondent agree that settlement of this matter for a penalty of **\$850.00** is in the public interest.
3. The EPA is authorized to enter into this Expedited Settlement Agreement and Final Order (Agreement) pursuant to section 9006 of RCRA and 40 C.F.R. § 22.13(b).
4. In signing this Agreement, the Respondent: (a) admits that the Respondent is subject to requirements listed above in Paragraph 1, (b) admits that the EPA has jurisdiction over the Respondent and the Respondent's conduct as alleged herein, (c) neither admits nor denies the factual allegations contained herein, (d) consents to the assessment of the \$850.00 penalty, and (e) waives any right to contest the allegations 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 he or she has: (a) corrected the alleged violation, (b) submitted true and accurate documentation of the correction including, but not limited to, a copy of the passing CP test and vendor invoice, (c) 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, (d) submitted true and accurate proof of deposit for payment of the civil penalty with this Agreement, and (e) agreed to release the deposit for payment to the EPA upon entry of this Agreement.
6. Upon entry, this Agreement shall constitute full settlement of the violation alleged herein.

7. The EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by the Respondent of RCRA or 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 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.
9. Each party shall bear its own costs and fees, if any.
10. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.


**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8, Office of Enforcement,  
Compliance and Environmental Justice**

**Complainant**

Date: 6/21/17

By:   
Aaron Urdiales, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice (8ENF-RC)  
U.S. Environmental Protection Agency, Region 8

Date: 6/26/17

By:   
Andrea Madigan, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice (8ENF-L)  
U.S. Environmental Protection Agency, Region 8

**Anthony Isburg,  
d.b.a. Shelby's Mini Mart  
Respondent**

Date: 11/17/17

By:   
Anthony Isburg

**CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT and FINAL ORDER** in the matter of **ANTHONY ISBURG D.B.A SHELBY'S MINI MART; DOCKET NO.: RCRA-08-2018-0001** was filed with the Regional Hearing Clerk on December 4, 2017.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Douglas Naftz, Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on December 4, 2017, to:

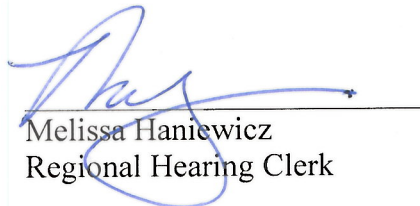
Respondent

Shelby's Minimart  
302 Hwy. 249 Box 492  
Ft. Thompson, SD 57339

And emailed to:

Jessica Chalifoux  
U. S. Environmental Protection Agency  
Cincinnati Finance Center  
26 W. Martin Luther King Drive (MS-0002)  
Cincinnati, Ohio 45268

December 4, 2017

  
Melissa Haniewicz  
Regional Hearing Clerk