

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF:

Docket No. RCRA-08-2023-0003

Farmer's Union Oil of McLaughlin
John Reese, Interim General Manager
EPA ID Nos. 4040011 and 4040020
Respondent.

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency (EPA) alleges that Farmer's Union Oil (FUO) of McLaughlin (Respondent), owner and/or operator of the Underground Storage Tank(s) (USTs) at FUO located in McLaughlin, South Dakota (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, following an inspection on November 3, 2020:
 - a. *40 CFR § 280.40(a)(3) Failure to inspect/test the automatic tank gauging (ATG) system annually.* At the inspection, the EPA requested, but did not receive, a record of the annual ATG inspection/test from the Facility
 - b. *40 CFR § 280.35(a)(1) Failure to conduct spill prevention equipment testing.* At the inspection, the EPA requested, but did not receive, a record of spill bucket integrity testing from the Facility.
 - c. *40 CFR § 280.35(a)(2) Failure to conduct overfill prevention equipment inspections.* At the inspection, the EPA requested, but did not receive, a record of overfill prevention testing from the Facility.
2. The EPA and the Respondent agree that settlement of this matter for a penalty of **\$3,666** 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. By 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 this penalty, and (e) waives any right to contest the allegations contained herein.
5. By signing this Agreement, 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 violations, and (b) submitted true and accurate documentation of the correction including, but not limited to, a copy of the ATG inspection/test record, a copy of the spill bucket test results, and a copy of overfill prevention equipment test results.

6. Upon signing and returning this Agreement to the EPA, the Respondent waives any and all remedies, claims for relief, and other available rights to judicial or administrative review that the 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 or 40 C.F.R. part 22.
7. Within thirty (30) calendar days of the effective date of this Agreement, Respondent shall pay the civil penalty in Paragraph 2 above by sending a cashier's or certified check, payable to "Treasurer, United States of America," by either:

U.S. Mail to:

U.S. Environmental Protection Agency
P.O. Box 979077
St. Louis, MO 63197-9000

Or overnight/common carrier (i.e. FedEx, DHL, UPS) to:

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza SL-MO-C2-GL
St. Louis, MO 63101

8. Alternatively, the penalty payment to "Treasurer, United States of America" may be made via electronic deposit for payment (Vendor Express, Fedwire, Pay.gov) at: <http://www2.epa.gov/financial/makepayment> following the online directions for an electronic funds transfer (EFT). The check or EFT instrument must state the case title ("In the Matter of: FUO McLaughlin"), and the docket number of this Agreement.
9. When paying the penalty, Respondent must send a notice of payment via email that states Respondent's name, complete address, and the docket number (along with a photocopy of the check or a statement of affirmation or receipt of an electronic funds transfer) to:

U.S. EPA Region VIII Hearing Clerk, R8_Hearing_Clerk@epa.gov
Roberta Person, person.roberta@epa.gov
Laurianne Jackson, jackson.laurianne@epa.gov
10. Full payment of the penalty in Paragraph 2 shall only resolve Respondent's liability for federal civil penalties for the violations 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.
11. No portion 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.
12. If Respondent does not timely pay the civil penalty, the 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.

13. The EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.

14. Each party shall bear its own costs and fees, if any.

15. 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,**

Complainant.


Date: _____

By: _____
Janice A. Pearson, Manager
RCRA & OPA Enforcement Branch
Enforcement and Compliance Assurance Division

**John Reese, Interim General Manager for FOU
McLaughlin,**

Respondent.

Date: 1/5/2023

By: 
Printed Name: John A Reese