



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

NOV 21 2019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7018 2290 0000 4961 2267

William Paladino, Manager
8112 Group, LLC
295 Main Street, Suite 210
Buffalo, New York 14203

Re: Underground Storage Tank (UST) Compliance Inspection of UST facilities Owned by the
8112 Group, LLC

Expedited Settlement Agreement
Docket No. RCRA-02-2019-7706

Dear Mr. Paladino:

The U.S. Environmental Protection Agency (EPA) Region 2 is in receipt of 8112 Group, LLC's penalty payment of \$2,700, 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 not seek a civil penalty for the violations listed in Proposed Expedited Settlement Agreement provided that all listed violations were timely corrected.

If you have any questions regarding this letter or any other related matter, please contact Hiep Tran of my staff at (212) 637-4280 or by e-mail at tran.hiep@epa.gov. Thank you for your cooperation.

Sincerely,

Claudia Gutierrez, Team Leader
UST Team

Enclosure

cc: Kevin Hale
NYSDEC
Chief – Facility Compliance Section
Division of Environmental Remediation
625 Broadway 11th Floor
Albany, NY 12233-7020

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION II**

U.S. Environmental Protection Agency-Region II
2019 NOV 21 PM 3: 21
RECEIVED
EPA/RCRA

IN THE MATTER OF:)	Docket No. RCRA-02-2019-7706
)	
)	
8112 Group, LLC)	EXPEDITED SETTLEMENT
)	AGREEMENT AND
)	FINAL ORDER
)	
Respondent)	
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EXPEDITED SETTLEMENT AGREEMENT

1. The United States Environmental Protection Agency (“EPA”) has determined that 8112 Group, LLC (“8112 Group” or “Respondent”), had been, at all applicable times set forth below, the owner of the Underground Storage Tanks (“USTs”) at the following locations: Big Tree Trading Company, 4114 St Francis Drive, Hamburg, NY 14075; Hamburg Trading Company, 4973 Clark Street, Hamburg, NY 14075 and Woodlawn Trading Company, 4100 St. Francis Drive, Hamburg, NY 14075, collectively known as 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. §280.93(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 August 4, 2015, November 12, 2015 and March 28, 2017 Inspections (“August 2015, November 2015 and March 2017 Inspections”) of the above-referenced USTs owned by the 8112 Group, none of the inspected facilities were able to demonstrate that they had third-party liability insurance at the time of their Inspection. In an email sent to EPA Enforcement Officer Mr. Hiep Tran dated September 20, 2018, Ms. Lori Carbaugh, Legal Counsel of Ellicott Development, on behalf of the 8112 Group, provided proof of third-party liability insurance for the Big Tree Trading Company with an effective start date of August 27, 2018. However, the 8112 Group failed to document that it had obtained third-party liability insurance coverage for the USTs it owned at both the Hamburg Trading Company and the Woodlawn Trading Company which the 8112 Group had sold in 2018. Therefore, the 8112 Group failed to have financial assurance, in violation of 40 C.F.R. § 280.93(a), for the USTs it owned at the Big Tree Trading Company from at least August 4, 2015, if not earlier, through August 27, 2018 and for the USTs it had

previously owned at both the Hamburg Trading Company and the Woodlawn Trading Company from August 4, 2015, if not earlier, until the date those two facilities had been sold.

b) 40 C.F.R. § 280.45(b) requires owners and operators of USTs to maintain every result of sampling, testing or monitoring for release detection for at least 1 year.

(1) During the November 2015 Inspection at the Hamburg Trading Company, EPA's contract inspector, Mr. Jeffrey Blair, was provided seven out of twelve (7/12) records of the monthly release detection monitoring for the two tanks situated at that facility. In EPA's April 6, 2016 Notice of Violation ("NOV") and Information Request Letter ("IRL") ("April 2016 NOV/IRL"), EPA sought the missing copies of the monthly release detection monitoring records for the two tanks situated at the Hamburg Trading Company. In its June 10, 2016 Response ("June 2016 Response") to the April 2016 NOV/IRL, Ms. Kathleen Linhardt, on behalf of 8112 Group, specifically stated that she "was unable to locate copies of the release detection records for the period ... from November 2014 through March 2015 for the two tanks located at 4973 Clark Street." By failing to provide the monthly release detection monitoring records for the two tanks located at the Hamburg Trading Company, the 8112 Group is in violation of 40 C.F.R. §280.45(b).

(2) During the August 2015 Inspection at the Big Tree Trading Company, Mr. Blair was provided four out of seven (4/7) months of passing electronic interstitial monitoring results for the two tanks. Mr. Blair also noted in his inspection report that when the facility reopened in January 2015 it was also missing the tank monthly release detection monitoring records for the period from January 2015 to March 2015. In EPA's April 2016 NOV/IRL, EPA sought the missing copies of the monthly release detection monitoring records for the Big Tree Trading Company which had been incorrectly identified in the April 2016 NOV/IRL as being situated at 4100 St. Francis Drive (rather than 4114 St. Francis Drive). In the June 2016 Response to the April 2016 NOV/IRL, Ms. Linhardt indicated that she was unable to locate copies of the release detection records for the period of August 2014 through March 2015 for the two USTs located at the Big Tree Trading Company. By failing to provide the monthly release detection monitoring records for the tanks at the Big Tree Trading Company, the 8112 Group is in violation of 40 C.F.R. §280.45(b).

2. The EPA and the Respondent agree that settlement of this matter for a penalty of **\$2,700** 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 in Paragraph 1, above, (2) admits that the EPA has jurisdiction over the

Respondent and the Respondent's conduct as alleged herein, (3) neither admits nor denies the factual determinations contained herein, (4) consents to the assessment of the penalty described in Paragraph 2, above, and (5) waives any right to contest the determinations contained therein.

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 it has: (1) corrected the violations EPA has identified in Paragraph 1, above, (2) submitted true and accurate documentation of those corrections, (3) provided a deposit for payment of the civil penalty in Paragraph 2 above in accordance with the EPA penalty payment procedures provided to the Respondent, (4) submitted true and accurate proof of deposit for payment of the civil penalty with this Agreement, and (5) agrees to release the deposit for payment to the EPA upon entry of this Order.
6. Full payment of the penalty as described in Paragraph 2, above, shall only resolve Respondent's liability for federal civil penalties for the violations 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 violation of law.
7. 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.
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. In addition, if the Respondent is a Federal agency, the Respondent waives its right to confer with the Administrator pursuant to section 6001 (b)(2) of RCRA.
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 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,

Name (print): William Paladino

Title (print): Manager

Signature: 

Date 9/6/19

APPROVED BY EPA:



Dore F. LaPosta, Director
Enforcement & Compliance Assurance Division

Date 10/15/19

In the Matter of 8112 Group, LLC
Docket No. RCRA-02-2019-7706

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Expedited Settlement Agreement. This Agreement, entered 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: November 19, 2019

8112 Group, LLC
Docket No, RCRA-02-2019-7706

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-02-2019-7706, 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:

William Paladino, Manager
8112 Group LLC
295 Main Street, Suite 210
Buffalo, New York 14203

Dated: November 21, 2019

May C Pogrone