

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7

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ENVIRONMENTAL PROTECTION
AGENCY REGION 7
2016 FEB 22 PM 1:59

IN THE MATTER OF)
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Myers Sporting Supply)
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Docket No. RCRA-07-2015-0029

ORDER

Pursuant to 40 C.F.R. § 22.5(a)(1), facsimile filing of page 1 of the Underground Storage Tank Field Citation Form for Expedited Settlement is authorized in this proceeding.

Dated: 2-22-2016

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 7
11201 Renner Boulevard, Lenexa, Kansas 66219
UNDERGROUND STORAGE TANK FIELD CITATION FORM FOR EXPEDITED SETTLEMENT
DOCKET NO. RCRA-07-2015-0029

PART I: INSPECTION SUMMARY

On: July 10, 2014
(Date of Inspection)

At: Myers Sporting Supply (KDHE ID 08673)
(Facility Name and Identification Number)

Address: 267 W. Hwy 24
Downs, Kansas 67437
Attention: Dave Walthers
(Name of Onsite Representative if not the Owner or Operator)

Name and address of the UST Owner or Operator (indicate which applies).

Name: Walthers Oil Company

Address: 2599 US Hwy 36
Cuba, Kansas 66940
Attention: Dave Walthers

A duly designated officer, employee, or representative of the EPA or a duly designated officer or employee of the State or Tribe inspected this facility. The EPA has reviewed the inspection report and other relevant materials and has identified the following violation(s) of the UST regulations promulgated or approved by the EPA under Subtitle I of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. § 6991 et seq.).

1. Violation: Failure to ensure proper operation of cathodic protect on system.

Cite: 40 CFR 280.31(b) [K.A.R. 28-44-19]

Proposed Penalty: \$ 210.00

PROPOSED PENALTY TOTAL: \$ 210.00

The EPA finds the Owner or Operator in violation of the above referenced UST regulations.

[Signature] Date: 12-23-15
(Signature of Authorized Officer or Employee of the EPA)

PART II: SETTLEMENT AGREEMENT/COMPLIANCE ORDER

A. Settlement Agreement: The Owner or Operator by signing this Settlement Agreement (or by having an authorized representative sign it) agrees to settle the violations identified in Part I, subject to the following terms and conditions:

The Owner or Operator certifies, subject to civil and criminal penalties for making a false submission to the U. S. Government, that he or she has corrected the violations, submitted true and accurate documentation of their correction, and submitted payment to the U.S. Treasury for the amount of \$210.00 in payment of the full proposed penalty amount, as described in Part I of this Form.

The Owner or Operator agrees to comply with the terms of the Compliance Order in Part II.B. Without admitting liability for the violations cited in Part I, the Owner or Operator signing below waives any objections to the EPA's jurisdiction with respect to the Compliance Order and this Settlement Agreement, and consents to the EPA's final approval of this Settlement Agreement without further notice. The Owner or Operator waives the opportunity for a public hearing pursuant to RCRA Section 9006.

Once the EPA signs the Settlement Agreement, the EPA will take no further enforcement action against the Owner or Operator for the civil violations described in Part I, provided the violations have been timely corrected and the penalty has been paid. The EPA does not waive its right to enforce against the Owner or Operator for any other violations not described in Part I and violations of the UST requirements or other requirements listed in Part I that were not corrected in a timely manner.

This Settlement Agreement and Compliance Order will become effective once signed by the EPA and is binding on the EPA and the Owner or Operator upon signature by both parties. Final approval of the Settlement Agreement and Compliance Order is in the sole discretion of the Regional Administrator, Region 7, EPA, or his or her authorized delegate. Upon final approval, the EPA shall mail a copy of this document to the Owner or Operator signing below.

SIGNATURE BY OWNER, OPERATOR, OR AUTHORIZED REPRESENTATIVE:

Name (print): Dave Walther
Title (print): MANAGER

Signature: [Signature] Date: 12-23-15

B. Compliance Order: This Compliance Order is issued under the authority of RCRA section 9006 to resolve the civil violations identified in Part I. The Owner or Operator is ordered to correct the violations, submit true and accurate documentation that the violations were corrected, and pay the total penalty amount listed in Part I of this Form. This Compliance Order shall become final and enforceable only upon signature by an EPA official with the authority to sign this document.

SIGNATURE BY EPA APPROVING THE SETTLEMENT AGREEMENT AND COMPLIANCE ORDER:

Name (print): KARINA BORROMEO
Title (print): REGIONAL JUDICIAL OFFICER

Signature: Karina Borromeo Date: 2-22-16

Notes:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY-REGION 7
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IN THE MATTER Of Myers Sporting Supply, Respondent
Docket No. RCRA-07-2015-0029

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy emailed to Attorney for Complainant:

aaron.mark@epa.gov

Copy by First Class Mail to Respondent:

Dave Walthers
Walthers Oil Company
2599 US Highway 36
Cuba, Kansas 66940

Dated: 2/22/16



Kathy Robinson
Hearing Clerk, Region 7