



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

*Karen  
Maples*

SEP 30 2016

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

**Article Number: 7015 1730 0000 9218 8152**

Mark McConkey  
Vice President of Facilities  
St. Josephs Hospital, Yonkers  
d/b/a St. Joseph's Medical Center  
127 South Broadway  
Yonkers, NY 10701-4080

Re: Underground Storage Tank (UST) Compliance Inspections of:

St. Josephs Hospital, Yonkers  
d/b/a Saint Joseph's Medical Center  
127 South Broadway  
Yonkers, NY  
WCDOH ID# 3-123161

Final Expedited Settlement  
Docket No. RCRA-02-2016-7706

Dear Mr. McConkey:

The U.S. Environmental Protection Agency (EPA) Region 2 is in receipt of St. Josephs Hospital d.b.a. St. Joseph's Medical Center's penalty payment of \$2,980, 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 take no further civil action against you for the violations listed in Proposed Expedited Settlement Agreement provided that all listed violations were timely corrected. EPA may choose to re-inspect the USTs located at St. Josephs Hospital d.b.a. St. Joseph's Medical Center's facility, and if EPA identifies any violations of federal UST regulations during the re-inspection or from any other information obtained by EPA, such findings would be Town of Oyster Bay's second violation of federal underground storage tank (UST) regulations. A second offense may result in a civil or judicial action which can include seeking penalties of up to \$22,587 per UST system per day of violation

U.S. Environmental  
Protection Agency-Region 2  
2016 SEP 29 PM 9:09  
KM OCT 3 2016  
REGIONAL DEPARTMENT

If you have any questions regarding this letter or any other related matter, please contact me at (212) 637-4237 or by e-mail at [sacker.paul@epa.gov](mailto:sacker.paul@epa.gov). Thank you for your cooperation.

Sincerely,



Paul Sacker, Acting Team Leader  
UST Team

Enclosure

cc: Russ Brauksieck (w/Enclosure)  
NYSDEC  
Chief – Facility Compliance Section  
Division of Environmental Remediation  
625 Broadway 11th Floor  
Albany, NY 12233-7020

Edward Moore  
Remediation/Spills Engineer  
DEC Region 3  
21 South Putt Corners Road  
New Paltz, NY 12561

J. Carlos Torres (w/Enclosure)  
Director, Office of Environmental Health Risk Control  
Westchester County Department of Health  
145 Huguenot St.  
New Rochelle, NY 10801

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION II

REC'D BY: HENANIS  
2016 SEP 23 11 09 AM  
U.S. Environmental  
Protection Agency-Region 2

IN THE MATTER OF: ) Docket No. RCRA-02-2016-7706  
)  
)  
St. Josephs Hospital, Yonkers )  
d/b/a St. Joseph's Medical Center )  
) **EXPEDITED SETTLEMENT AGREEMENT**  
) **AND**  
Respondent. ) **FINAL ORDER**  
\_\_\_\_\_)

**EXPEDITED SETTLEMENT AGREEMENT**

1. The U.S. Environmental Protection Agency ("EPA") has determined that St. Josephs Hospital, Yonkers d/b/a St. Joseph's Medical Center ("Respondent"), owner and operator of the Underground Storage Tank(s) ("USTs") at 127 South Broadway, Yonkers, NY (the "UST 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:
  - a. 40 C.F.R. §280.21(a) requires all existing underground storage tanks to be fully upgraded to the compliance standards of 40 C.F.R. §280.20 including overfill prevention devices and corrosion protection by no later than December 22, 1998. On April 13, 2016, the EPA sent Respondent an information request letter ("IRL") to determine its compliance with Subtitle I of RCRA at the UST Facility. Respondent's April 20, 2016 IRL response indicated that the facility's 1500-gallon diesel fuel emergency generator UST did not have corrosion protection. The tank was installed in June 1976 and is an existing tank as defined by 40 C.F.R. §280.12. The April 20, 2016 IRL response admitted that the UST was never properly upgraded and indicates a violation of the upgrade requirement of 40 C.F.R. 280.21. Respondent failed to upgrade its existing 1500-gallon diesel fuel tank as required.
  - b. 40 C.F.R. § 280.93(a) requires that all UST owner/operators ensure financial responsibility for their tanks including having third party bodily injury insurance. Respondent's April 20, 2016 IRL response admitted that the two regulated USTs at the facility (a 1500-gallon diesel fuel tank and a 500-gallon UST) had not been insured for third party bodily injury but provided documentation that the insurance was acquired on February 18, 2016. This response indicates that the USTs did not meet the financial responsibility requirements of 40 C.F.R. 280.93(a). Failure to ensure financial responsibility, including obtaining third party bodily injury insurance is a violation of 40 C.F.R. § 280.93(a). Respondent

failed to have third party bodily injury insurance for the Facility's two tanks prior to February 18, 2016.

2. The EPA and the Respondent agree that settlement of this matter for a penalty of \$2,980 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 above in Paragraph 1, (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 this penalty, and (5) waives any right to contest the determinations 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 it has: (1) corrected the violations described above, (2) submitted true and accurate documentation of the corrections, (3) provided a deposit in the amount of \$2,980 for payment of the civil penalty in Paragraph 2 above in accordance with the EPA penalty collection procedures provided to the Respondent, (4) submitted true and accurate proof of deposit for payment of the civil penalty with this Agreement, and (5) agreed to release the deposit for payment to the EPA upon entry of the attached Order.
6. Upon filing, this Expedited Settlement Agreement and Final Order shall constitute full settlement of the Respondent's civil liabilities under Section 9006 of RCRA for the violation(s) described in paragraph 1, above.
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, any other federal statute or regulation, or for any violations certified 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.

IT IS SO AGREED,

RESPONDENT:

Name of individual signing (print): Mark McConkey

Title: VP of Facilities / support services  
St. Josephs Hospital, Yonkers

Signature: 

Date: 9/26/16

APPROVED BY EPA:



Dore F. LaPosta, Director  
Division of Enforcement and Compliance Assistance

Date: 9/29/16

St. Josephs Hospital, Yonkers  
d/b/a St. Josephs Medical Center,  
Docket No. RCRA-02-2016-7706

**IT IS SO ORDERED:**

**FINAL ORDER**

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Expedited Settlement Agreement. This Agreement, entered into 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: September 30, 2016

Town of Oyster Bay  
Docket No, RCRA-02-2016-7702

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-02-2016-7702, 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, 16<sup>th</sup> Floor  
New York, NY 10007-1866

Copy by Certified Mail/  
Return Receipt Requested:

Raymond Sweirkowski, Supervisor  
Town of Oyster Bay  
150 Miller Pl.  
Syosset, NY 11791

Dated: Sept. 30, 2016

Mary E. Caspore