



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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DENVER, CO 80202-1129

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http://www.epa.gov/region08

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FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: RCRA-08-2016-0008

IN THE MATTER OF:

WES COLOMBE
d.b.a. ALLSTOP

RESPONDENT

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FINAL ORDER

Pursuant to 40 C.F.R. §22.13(b) and 22.18(b)(2)(3), of EPA’s Consolidated Rules of Practice, the Consent 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 Consent Agreement and Final Order.

SO ORDERED THIS 19th DAY OF September, 2016.

Elyana Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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IN THE MATTER OF:)
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Wes Colombe,)
d.b.a Allstop)
EPA ID No. 4080030)
Respondent.)
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Docket No ~~RCRA-08-2016-0008~~

FILED
REGION VIII
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EXPEDITED SETTLEMENT AGREEMENT

- I. The U.S. Environmental Protection Agency (“EPA”) alleges that Wes Colombe (“Respondent”), owner and/or operator of the Underground Storage Tank(s) (USTs) at BIA Hwy 1, Rosebud, SD 57570 (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, during an inspection on September 16, 2015.
 - a. 40 CFR § 280.30(a) – Failure to take necessary precautions to prevent spillage during the transfer of product. At the time of inspection the spill bucket on Tank 1 (12,000 gal) contained about 3 inches of liquid. On November 10, 2015, Mr. Colombe provided documentation showing compliance under this section. Penalty amount of \$2,130 assessed to the UST Facility.
 - b. 40 CFR § 280.31(b)(1) – Failure to meet one 3-year test for cathodic protection (CP) system. On September 25, 2015, Mr. Colombe provided current passing CP test results for a test conducted on June 2, 2015. The previous CP test, conducted on February 22, 2012, expired on February 23, 2015. Penalty amount of \$140 assessed to the UST Facility.
 - c. 40 CFR § 280.41(a) – Failure to monitor tanks at least every 30 days. At the time of inspection there was no proof that tank leak tests had been conducted every 30 days for the time period between September 1, 2014, and September 22, 2015. Automatic tank gauging maintenance was conducted on September 22, 2015, and both tanks obtained a passing tank leak test. Penalty amount of \$1,700 assessed to each tank, total violation penalty of \$3,400.
 - d. 40 CFR § 280.44 – Failure to provide any release detection for underground piping. The UST Facility uses sump sensors for piping release detection. At the time of inspection there was no documentation that the sump sensors were working properly and when tested during the inspection, the sensors did not work. On September 25, 2015, Mr. Colombe provided documentation proving the sump sensor functionality. The documentation indicated that each sensor will now trigger an alarm if a leak is detected. Penalty amount of \$2,130 assessed to each piping run, total violation penalty of \$4,260.

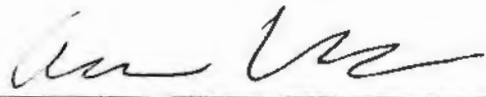
2. The EPA and the Respondent agree that settlement of this matter for a penalty of **\$9,930** is in the public interest.
3. The EPA is authorized to enter into this Expedited Settlement Agreement and Final Order ("Agreement") pursuant to section 9006 of RCRA and 40 C.F.R. § 22.13(b).
4. In signing this Agreement, the Respondent: (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 allegations contained herein, (4) consents to the assessment of this penalty, and (5) 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: (1) corrected the alleged violations, (2) submitted true and accurate documentation of those corrections including, but not limited to, copies of passing leak tests for each tank for each month between October 2015 and February 2016, (3) 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, (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. Upon filing, this ESA and Final Order shall constitute full settlement of the violation(s) 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, 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: 9/12/16

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

Date: 9/14/14

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

**Wes Colombe,
d.b.a. Allstop**

Respondent

Date: August 31, 2012

By: 
Wes Colombe

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT AND CONSENT AGREEMENT and FINAL ORDER** in the matter of **WES COLOMBE, d.b.a. ALLSTOP; DOCKET NO.: RCRA-08-2016-0008** was filed with the Regional Hearing Clerk on September 19, 2016.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Laurianne Jackson, Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on September 19, 2016, to:


Respondent

Wes Colombe
d.b.a. Allstop
PO Box 21
Mission, South Dakota 57555

And emailed to:

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

September 19, 2016


Melissa Haniewicz
Regional Hearing Clerk

