

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103**

IN THE MATTER OF:

**Empire Petroleum Partners, LLC, aka
EPP – Leasing I, LLC**

Respondent

**Richmond Highway BP, 8263 Richmond
Highway Alexandria, VA 22309, Facility
ID No. 3003645**

Facility

DOCKET NO.: RCRA-03-2022-0050

**EXPEDITED SETTLEMENT
AGREEMENT AND FINAL ORDER**

EXPEDITED SETTLEMENT AGREEMENT

1. Empire Petroleum Partners, LLC, aka EPP – Leasing I, LLC (“Respondent”) and the Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 9006 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C § 6991e, and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and (3)). The Administrator has delegated the authority to enter into this Agreement to the Regional Administrator who, in turn, has delegated it to the Complainant.
2. The U.S. Environmental Protection Agency, Region III (“EPA”) has jurisdiction over this matter pursuant to 9006 of RCRA, 42 U.S.C. § 6991e, and 40 C.F.R. §§ 22.1(a)(4) and 22.4 of the Consolidated Rules of Practice.
3. Complainant alleges that, at all times relevant to the allegations described in this Agreement, Respondent was and continues to be a “person,” and the “operator” and/or “owner” of “underground storage tanks” (“USTs”) and “UST systems,” located at Richmond Highway BP, 8263 Richmond Highway Alexandria, VA 22309, Facility ID No. 3003645 (“Facility”).
4. Complainant alleges and finds that Respondent failed to comply with specific requirements of Subtitle I of RCRA, 42 U.S.C. §§ 6991 *et seq.*, its implementing regulations at 40 C.F.R. Part 280, and the federally-authorized Virginia UST management program regulations, as set forth in the Virginia Administrative Code as Underground Storage Tanks: Technical Standards and Corrective Action Requirements (“VA UST Regulations”), 9 VAC § 25-580-10 *et seq.* The federally-authorized Virginia UST regulations are enforceable by EPA pursuant to Section 9006(a) of RCRA, 42 U.S.C. § 6991e(a).

5. On September 29, 2020, a representative of EPA conducted a Compliance Evaluation Inspection, and observed the following USTs located at the Facility: A 550-gallon tank that was installed in or about 1989, and that, at all times relevant hereto, routinely contained used-oil, a “regulated substance” as that term is defined in 9 VAC § 25-580-10 (hereinafter “UST No. “5”).
6. Complainant has identified the following violation: From at least April 25, 2020 until October 1, 2020, Respondent failed to conduct monthly tank release detection monitoring on UST No. 5, in violation of 9 VAC 25-580-140(1) and 40 C.F.R. § 280.41(a).
7. Complainant and Respondent agree that settlement of this matter for a penalty of \$940.00 (**NINE HUNDRED FORTY DOLLARS**) is in the public interest. In calculating this amount, Complainant considered the statutory factors set forth in Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), and the Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations and Revised Field Citation Program and ESA Pilot, effective October 5, 2018.
8. Respondent agrees that, within 30 days of the effective date of this Agreement, Respondent shall make a payment of \$940.00 (**NINE HUNDRED FORTY DOLLARS**) by one of four methods: 1) electronic funds transfer (“EFT”), 2) Automated Clearinghouse, 3) Pay.gov, or 4) a cashier’s check or certified check made out to “**United States Treasury**” with the case name, address and docket number of this Agreement (RCRA-03-2022-0050), for the amount specified above:

a. Payment of the penalty amount by EFT:

Federal Reserve Bank of New York
ABA 021030004
Account 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Beneficiary: Environmental Protection Agency

b. Payment of the penalty amount by Automated Clearinghouse (“ACH”):

U.S. Treasury REX/Cashlink ACH Receiver

ABA: 051036706
Account Number: 310006, Environmental Protection Agency

CTX Format Transaction Code 22- Checking

Physical Location of the U.S. Treasury Facility
5700 Rivertech Court
Riverdale, MD 20737
Remittance Express (REX): 1-866-234-5681

c. Payments made through Pay.gov:

Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments. Follow these steps to make a payment:

- (1) You **DO NOT** need a user name and password or account.
- (2) Enter **SFO 1.1** in the form search box on the top left side of the screen.
- (3) Open the form and follow the on-screen instructions.
- (4) Select your method of payment from the “Type of Payment” drop down menu.
- (5) Based on your selection, the corresponding line will open and no longer be shaded grey.
- (6) Enter the docket number of this Agreement into the field.

d. Payment of the penalty amount by regular U.S. Postal Service shall be sent via certified mail to:

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

e. Payment of the penalty amount by overnight mail (FedEx or other non-U.S. Postal Service express mail) shall be sent to:

U.S. Environmental Protection Agency
Government Lock Box - Cincinnati Finance Center Box 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

f. A list of the payment methods is also provided at this website
<https://www.epa.gov/financial/makepayment>.

9. Within 24 hours of payment, the Respondent shall also send proof of payment (a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer), by electronic mail to:

Caitlin Stormont
stormont.caitlin@epa.gov
U.S. EPA Region III
Enforcement and Compliance Assurance Division
RCRA Section

and

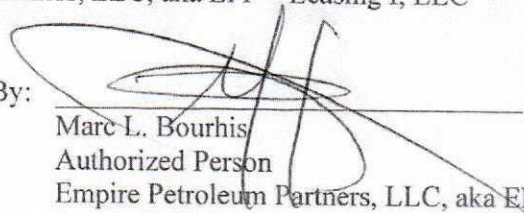
Regional Hearing Clerk (3RC00)
R3_Hearing_Clerk@epa.gov

10. In signing this Agreement, the Respondent: admits the jurisdictional allegations in this Agreement; neither admits nor denies the specific factual allegations in this Agreement, except as provided in the jurisdictional admission above; agrees not to contest EPA's jurisdiction with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement the Agreement; expressly waives its right to a hearing on any issue of law or fact in this Agreement and any right to appeal the accompanying Final Order; consents to the issuance of the Agreement and agrees to comply with its terms; agrees to bear its own costs and attorney's fees; and agrees not to deduct for federal tax purposes the civil penalty assessed in this Agreement and Final Order.
11. By its signature below, the Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that (1) it has corrected the alleged violations, and (2) any documentation or information that it provided to EPA was true and accurate.
12. This Agreement and the attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations alleged in this Agreement.
13. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Sections 22.18(c) and 22.31(a) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the RCRA, the RCRA regulations promulgated, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Agreement, following its filing with the Regional Hearing Clerk.
14. Late payment of the agreed upon penalty may subject Respondent to interest, administrative costs and late payment penalties in accordance with 40 C.F.R. § 13.11.
15. This Agreement is binding on the parties signing below and is effective upon filing, in accordance with 40 C.F.R. § 22.31(b).
16. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind Empire Petroleum Partners, LLC, aka EPP – Leasing I, LLC.
17. As permitted under 40 CFR § 22.6, the Regional Hearing Clerk will serve copies of this Agreement and Final Order by e-mail to the parties at the following valid e-mail addresses:

stormont.caitlin@epa.gov (for Complainant) and mbourhis@empirepetroleum.com (for Respondent).

For Respondent: Empire Petroleum Partners, LLC, aka EPP – Leasing I, LLC

Date: 12/16/21

By: 

Marc L. Bourhis
Authorized Person
Empire Petroleum Partners, LLC, aka EPP –
Leasing I, LLC

For Complainant: U.S. Environmental Protection Agency, Region III

After reviewing the Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: _____
Karen Melvin, Director
Enforcement and Compliance Assurance Division

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Respondent

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FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency - Region III, and Respondent, Empire Petroleum Partners, LLC, aka EPP – Leasing I, LLC, have executed a document entitled “Expedited Settlement Agreement,” which I hereby ratify as a Consent Agreement in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (“Consolidated Rules of Practice”), 40 C.F.R. Part 22, (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Expedited Settlement Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

Based upon the representations of the parties in the attached Expedited Settlement Agreement, the penalty agreed to therein took into account the statutory factors set forth in Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), and the Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations and Revised Field Citation Program and ESA Pilot, effective October 5, 2018.

NOW, THEREFORE, PURSUANT TO Section 9006 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. Section 6991e, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of \$940 (**NINE HUNDRY FORTY DOLLARS**), in accordance with the payment provisions set forth in the Expedited Settlement Agreement, and comply with the terms and conditions of the Expedited Settlement Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Expedited Settlement Agreement and does

not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6991 et seq., and the regulations promulgated thereunder.

The effective date of the foregoing Expedited Settlement Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

By:

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III