

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

In the Matter of:

Gas Land Petroleum, Inc.,

Respondent.

Proceeding under Section 9006 of the
Solid Waste Disposal Act, as amended.

**CONSENT AGREEMENT AND
FINAL ORDER**

Docket No. RCRA-02-2024-7501

PRELIMINARY STATEMENT

This is a civil administrative proceeding instituted pursuant to Section 9006 of the Solid Waste Disposal Act as amended, 42 U.S.C. § 6901, *et seq.* (“RCRA” or the “Act”) and the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22 (“CROP”). Complainant in this proceeding is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency, Region 2 (“EPA”), who has been delegated the authority to sign consent agreements in pre-filing settlements between EPA and a party against whom an administrative enforcement action is taken for violations of requirements under RCRA and the corresponding federal regulations. Section 9006 of RCRA, 42 U.S.C. § 6991(e), authorizes the Administrator to enforce violations of the Act and the regulations promulgated pursuant to it. Respondent, Gas Land Petroleum, Inc. (“Gas Land” or Respondent), has been, during all the relevant times, the owner and/or operator of one or more regulated underground storage tank (“UST”), at nineteen (19) facilities located in Dutchess County, Orange County, Putnam County, Rensselaer County, and Ulster County, New York.

Pursuant to Section 22.13(b) of the CROP, where the parties agree to settlement of one or more causes of action before the filing of an administrative complaint, a proceeding may be simultaneously commenced and concluded by issuance of a Consent Agreement and Final Order (“CA/FO”) pursuant to 40 C.F.R. Sections 22.18(b)(2) and 22.18(b)(3) of the CROP. The Complainant and the Respondent have reached an amicable resolution of this matter and agree that settlement of this matter by entering into this CA/FO is an appropriate means of resolving this case without further litigation.

No adjudicated findings of fact or conclusions of law have been made. Respondent neither admits nor denies the EPA Findings of Fact and Conclusions of Law set forth below.

EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is Gas Land Petroleum, Inc. Respondent is a corporation under the laws of New York State and is located at 3 South Ohioville Road, Suite 1, New Paltz, NY 12561.
2. Respondent is a "person" within the meaning of Sections 1004(15) and 9001(5) of the Act, 42 U.S.C. §§ 6903(15) and 6991(5), and 40 C.F.R. § 280.12.
3. At all relevant times herein, Respondent was an "owner" and/or "operator" of "USTs" or "UST systems," as those terms are defined in Section 9001 of the Act, 42 U.S.C. § 6991, and/or in 40 C.F.R. § 280.12.
4. Pursuant to §§ 2002, 9002, and 9003 of the Act, 42 U.S.C. §§ 6912, 6991a, 6991b and 6991d, EPA promulgated regulations setting forth requirements for owners and operators of UST systems, set forth at 40 C.F.R. Part 280. These regulations include but are not limited to requirements related to: (a) financial responsibilities; (b) spill and overfill prevention equipment; (c) investigation and confirmation of suspected releases (d) walkthrough inspections (e) monitoring tests for release detection; (f) annual testing of automatic line leak detectors, and (g) record keeping of compliance with release detection.
5. Pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, an authorized representative of the EPA inspected Respondent's UST systems at thirty (30) of the Respondent's facilities, including the nineteen (19) facilities specified below, in order to determine Respondent's compliance with the Act and 40 C.F.R. Part 280:
 - (a) Gas Land Noxon Road ("Gas Land Noxon Road"), 349 Noxon Road, Poughkeepsie, NY 12603, inspected on June 4, 2018;
 - (b) Gas Land Amenia ("Gas Land Amenia"), 5330 Route 44, Amenia, NY 12501, inspected on September 6, 2018;
 - (c) Route 44 Mart ("Route 44 Mart"), 818 Dutchess Tpke, Poughkeepsie, NY 12603, inspected on September 6, 2018;
 - (d) Gas Land Brewster ("Gas Land Brewster"), 3411 Danbury Road, Brewster, NY 10509, inspected on November 5, 2018;
 - (e) Gas Land Highland ("Gas Land Highland"), 3600 Route 9W, Highland, NY 12528, inspected on November 5, 2018;
 - (f) Gas Land Blue Hill ("Gas Land Blue Hill"), 2436 Route 52, Hopewell Junction, NY 12533, inspected on March 7, 2019;
 - (g) Gas Land Elm Street ("Gas Land Elm Street"), 2 Elm Street, Fishkill, NY 12524,

inspected on March 7, 2019;

(h) Gas Land Myers Corners (“Gas Land Myers Corners”), 233 Myers Corners Road, Wappingers Falls, NY 12590, inspected on March 7, 2019;

(i) Gas Land Route 82 (“Gas Land Route 82”), 854 Route 82, Hopewell Junction, NY 12533, inspected on March 7, 2019;

(j) Gas Land Route 9 South (“Gas Land Route 9 South”), 747 Route 9, Fishkill NY 12524, inspected on March 7, 2019;

(k) Kramson Sunoco Fishkill (“Kramson Sunoco Fishkill”), 822 Route 52, Fishkill, NY 12524, inspected on March 7, 2019;

(l) Route 52 Sunoco (“Route 52 Sunoco”), 2612 Route 52, Hopewell Junction, NY 12533, inspected on March 7, 2019;

(m) Fifth Ave. Sunoco (“Fifth Ave. Sunoco”), 42 South Plank Road, Newburgh, NY 12550, inspected on March 8, 2019;

(n) Gas Land Beekman (“Gas Land Beekman”), 2444 Route 55, Poughkeepsie, NY 12533, inspected on March 8, 2019;

(o) Gas Land Lagrange (“Gas Land Lagrange”), 1220 Route 55, Lagrangeville, NY 12540, inspected on March 8, 2019;

(p) Gas Land Salt Point (“Gas Land Salt Point”), 2406 Route 44, Salt Point, NY 12578, inspected on March 8, 2019;

(q) Route 299 Gas Land Petroleum Inc. (“Route 299 Gas Land Petroleum Inc.”), 490 Main Street, New Paltz, NY 12561, inspected on March 8, 2019;

(r) John Jay (“John Jay”), 1997 Route 52, Hopewell Junction, NY 12533, inspected on March 12, 2019;

(s) Route 4 Sunoco (“Route 4 Sunoco”), 447 North Greenbush Road, Rensselaer, NY 12144, inspected on March 18, 2019;

(t) The Respondent’s other eleven (11) facilities inspected by the EPA and identified in Enclosure 1 of the EPA’s July 1, 2019, Notice of Violation and Request for information were not included in this enforcement action.

6. On or about July 1, 2019, and November 25, 2019, EPA sent RCRA § 9005 Information Request Letters (hereinafter “IRLs”) in order to determine Respondent’s compliance with the requirements of the Act and 40 C.F.R. Part 280 pertaining to the underground storage tanks at the facilities specified in Paragraph 5, above. After three extensions of the response deadlines, EPA received responses on or about August 30, 2019, February 5, 2020, and March 16, 2020.
7. Based on the EPA’s inspections and Respondent’s responses to EPA’s IRLs, EPA determined that Respondent failed to comply with the following UST requirements at the varying time periods specified below:
 - (a) At the nineteen (19) facilities specified in Paragraph 5, above: failure to comply with the financial responsibility requirement for UST systems (40 C.F.R. § 280.93) from January 1, 2018, through February 10, 2019.
 - (b) Route 44 Mart facility: failure to comply with overfill prevention equipment requirements (40 C.F.R. § 280.20(c)(1)(ii)) on September 6, 2018.
 - (c) Gas Land Highland facility: failure to comply with overfill prevention equipment requirements (40 C.F.R. § 280.20(c)(1)(ii)) on November 5, 2018; and failure to investigate and confirm a suspected release (40 C.F.R. § 280.52) from May 27, 2018, to October 8, 2018.
 - (d) Gas Land Myers Corners facility: failure to conduct periodic walkthrough inspections (40 C.F.R. § 280.36(a)) from October 13, 2018, to December 18, 2018; and failure to monitor tanks for releases (40 C.F.R. § 280.41(a)) from May 2018 to September 2018 and during November 2018.
 - (e) John Jay facility: failure to annually test automatic line leak detectors (40 C.F.R. § 280.44(a)) from January 24, 2019, to March 12, 2019.
 - (f) Route 4 Sunoco facility: failure to conduct initial testing of spill and overfill prevention equipment and containment sumps (40 C.F.R. § 280.35(b)(1)) prior to October 13, 2018; and failure to maintain records of monthly monitoring of release detection equipment for tanks and lines (40 C.F.R. § 280.45(b)) from March 1, 2018, to June 30, 2018.
8. EPA issued a Notice of Opportunity for Pre-Filing Discussion with Respect to Prospective Enforcement Action under RCRA to Respondent on January 5, 2023.
9. The parties have engaged in settlement discussions in good-faith and have now agreed to settle this matter by entering into this Consent Agreement.

CONSENT AGREEMENT

Based upon the foregoing, and pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991(e), and 40 C.F.R. § 22.18 of the CROP, it is hereby agreed by and between the Complainant and the Respondent and voluntarily and knowingly accepted by the Respondent, that Respondent, for purposes of this Consent Agreement:

- a. admits the jurisdictional basis of this action;
- b. neither admits nor denies EPA's Findings of Fact and Conclusions of Law above;
- c. consents to the assessment of the civil penalty agreed to by the parties set forth below;
- d. consents to any and all conditions stated in the consent agreement including the assessment of the EPA civil penalty as set forth below;
- e. consents to the issuance of the Final Order incorporating all the provisions of this Consent Agreement; and
- f. waives its right to contest or appeal that Final Order.

It is further hereby agreed by and between Complainant and Respondent, and voluntarily and knowingly accepted by Respondent, that Respondent shall comply with the following terms and conditions:

1. Commencing on the effective date of the Final Order, Respondent shall hereinafter maintain compliance at its facilities with the regulations applicable to owners and operators of USTs as set forth at 40 C.F.R. Part 280 that address the following requirements: (a) financial responsibility; (b) spill and overfill prevention equipment; (c) investigation and confirmation of suspected releases (d) walkthrough inspections (e) monitoring tests for release detection; (f) annual testing of automatic line leak detectors, and (g) recordkeeping demonstrating compliance with release detection.
2. By signing this consent agreement Respondent certifies under penalty of law that, as of the effective date of the CA/FO, to the best of its knowledge and belief, it is complying with all the applicable UST requirements including all the requirements violated referenced in Paragraph 7 of EPA's Findings of Facts and Conclusions of Law of this CA/FO.
3. Respondent shall pay a civil penalty to EPA in the total amount of **ONE HUNDRED FORTY THOUSAND DOLLARS (\$140,000.00)**. Such payment shall be made by cashier's check, certified check or by electronic fund transfer (EFT).
4. If payment is made by check, then the check shall be: (a) made payable to the **"Treasurer, United States of America;"** (b) identified with a notation thereon listing the following: **"In the Matter of Gas Land Petroleum, Inc., Docket Number RCRA 02-2024-7501;"** and (c) mailed to (if using the United States postal service):

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979078
St. Louis, MO 63197-9000

or, if using UPS or FedEx, sent to:

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, MO 63045.

5. Alternatively, if Respondents choose to make the payment by EFT, Respondents shall then provide the following information to its remitter bank:
 - a. Amount of Payment (**\$140,000**).
 - b. SWIFT address: **FRNYUS33, 33 Liberty Street, New York, New York 10045**
 - c. Account Code for Federal Reserve Bank of New York receiving payment: **68010727**
 - d. Federal Reserve Bank of New York ABA routing number: **021030004**
 - e. Field Tag 4200 of the Fedwire message should read: **D 68010727 Environmental Protection Agency**
 - f. Name of Respondents: **Gas Land Petroleum, Inc.**
 - g. Case docket number: **RCRA-02-2024-7501**
6. If Respondent chooses to make on-line payment, Respondent shall go to www.pay.gov and enter "SFO 1.1" in the search field on the tool bar on the Home Page; select "Continue" under "EPA Miscellaneous Payments - Cincinnati Finance Center" and open the form and complete the required fields. Once payment has been effected, Respondent shall email proof of payment to lavigna.gaetano@epa.gov, taylor.karen@epa.gov and wise.milton@epa.gov with In the Matter of Gas Land Petroleum, Inc., RCRA 02-2024-7501 as the subject line.
7. Whether Respondent makes the payment by cashier's check, certified check or by the EFT method, Respondent shall, promptly when payment has been made, furnish reasonable proof that the required payment has been made, and such proof shall be furnished to the EPA individuals identified in Paragraph 15 below.
8. The total payment must be received at the above address (or account of EPA) on or before thirty (30) calendar days from the date on which the Regional Administrator signs the Final Order located at the end of this CA/FO (the "Due Date").

9. Failure to pay the amount in full within the time period set forth above may result in referral of this matter to the United States of Department of Justice or the United States Department of the Treasury for collection or other appropriate action.
10. Furthermore, if payment is not made on or before the Due Date, interest for said payment shall be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, on the overdue amount from the Due Date said payment was to have been made through the date said payment has been received. In addition, a late payment handling charge of \$15.00 will be assessed for each thirty (30) calendar day period or any portion thereof, following the date the payment was to have been made, in which payment of the amount remains in arrears. In addition, a 6% per annum penalty will be applied to any principal amount that has not been received by the EPA within ninety (90) calendar days of the date by which the payment was required hereto to have been made.
11. The civil penalty (including any payment of interest, or late payment handling charge) herein constitutes a “penalty” within the meaning of 26 U.S.C. § 162(f) and is not a deductible expenditure for purposes of federal or state law.
12. Full payment of the penalty described in Paragraph 3 of this Consent Agreement shall only resolve Respondent’s liability for federal civil penalties for the violations described in Paragraph 7 of EPA’s Findings of Fact and Conclusions of Law. 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 violations of law.
13. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service (“IRS”) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that requires a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (*i.e.*, a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:
 - a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>

- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
 - c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at wise.milton@epa.gov, within thirty (30) days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
 - d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within thirty (30) days after the Effective Date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
 - i. notify EPA's Cincinnati Finance Center of this fact, via email, within thirty (30) days from the date on which the Regional Administrator signs the Final Order located at the end of this CAFO; and
 - ii. provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's receipt of the TIN.
14. Complainant shall e-mail to Respondent (to the representative designated in Paragraph 15 of this Consent Agreement, below) a copy of the fully executed CA/FO. Respondent consents to service of the CA/FO by email and consents to service by an employee of EPA other than the Regional Hearing Clerk of EPA, Region 2.
15. Except as the parties may agree otherwise in writing, all documentation and information required to be submitted in accordance with the terms and conditions of this Consent Agreement shall be sent by e-mail to:

Gaetano LaVigna
Enforcement and Compliance Assurance Division
RCRA Compliance Branch
US Environmental Protection Agency, Region 2
290 Broadway, 21st Floor
New York, NY 10007-1866
lavigna.gaetano@epa.gov

and

Karen L. Taylor, Assistant Regional Counsel
Office of Regional Counsel
US Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
taylor.karen@epa.gov

Unless the above-named EPA contacts are later advised otherwise in writing, EPA shall send any future written communications related to this matter (including any correspondence related to payment of the penalty) to Respondent by email to:

Joseph F. Castiglione, Esq.
Member/Partner
Young / Sommer LLC
Attorneys at Law
Executive Woods
Five Palisades Drive
Albany, NY 12205
jcastiglione@youngsommer.com

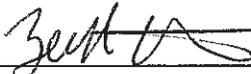
16. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to the issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all the terms of the settlement are set forth herein.
17. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement and agrees to pay the civil penalty in accordance with the terms of the Consent Agreement.
18. Respondent agrees not to contest the validity of any term of this CA/FO in any action, suit or proceeding brought by the United States, including EPA, to enforce this CA/FO or to enforce a judgment relating to this CA/FO.
19. Respondent waives its right to request a hearing on this Consent Agreement, or the Final Order included herein, including any right to contest any of EPA's Findings of Fact and Conclusions of Law contained within this document, in addition, Respondent expressly waives any right to contest the EPA determinations contained in this CA/FO and to appeal the Final Order in this CA/FO.
20. This CA/FO does not relieve Respondent of its obligations to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit. This CA/FO does not waive, extinguish, or otherwise affect Respondent's obligation to comply with applicable provisions of the Act and the regulations promulgated thereunder.
21. Nothing in this document is intended nor shall it be construed to waive, prejudice, or otherwise affect the right of EPA, or the United States, from pursuing any appropriate remedy, sanction or penalty prescribed by law against the Respondent for having made any material misrepresentations or for having provided materially false information in any document in connection with this proceeding.

22. Nothing herein shall be construed to limit the power of the EPA to undertake any action against the Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.
23. The provisions of this CA/FO shall be binding upon EPA and Respondent, its officers, agents, authorized representatives, and successor agencies, departments, or instrumentalities.
24. Each party hereto agrees to bear its own costs and fees in connection with this proceeding.
25. The undersigned signatory for Respondent certifies that: (a) he or she is duly and fully authorized to enter into this Consent Agreement and all the terms, conditions and requirements set forth in this Consent Agreement; and (b) he or she is duly and fully authorized to bind the party on behalf of which he or she is entering this Consent Agreement to comply with and abide by all the terms, conditions and requirements of this Consent Agreement.
26. EPA and Respondent agree that the parties may use electronic signatures for this matter.
27. Pursuant to 40 C.F.R. Section 22.13(b), the effective date of this CA/FO shall be the date when it is filed with the Regional Hearing Clerk of the United States Environmental Protection Agency, Region 2.

In the Matter of Gas Land Petroleum, Inc.
Docket Number RCRA-02-2024-7501

RESPONDENT:

Gas Land Petroleum, Inc.

BY: 
(Signature & Date)

NAME: Zeidan Neshewat
(Please Print)

TITLE: vice President

In the Matter of Gas Land Petroleum, Inc.
Docket Number RCRA-02-2024-7501

COMPLAINANT

CHRISTINE
ASH

Digitally signed by
CHRISTINE ASH
Date: 2024.03.22
09:43:32 -04'00'

Christine Ash, Acting Director
Enforcement and Compliance Assurance Division
Environmental Protection Agency - Region 2
290 Broadway, 21st Floor
New York, NY 10007-1866

In the Matter of Gas Land Petroleum, Inc.
Docket Number RCRA-02-2024-7501

FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement, entered into by the Complainant and the Respondents, 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 filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.

 3-28-24

Lisa F. Garcia
Regional Administrator
U.S. Environmental Protection Agency - Region 2
290 Broadway, 26th Floor
New York, NY 10007-1866

In the Matter of Gas Land Petroleum, Inc.
Docket Number RCRA-02-2024-7501

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Copy by EMAIL:

Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency- Region 2
290 Broadway, 17th Floor
New York, NY 10007-1866
maples.karen@epa.gov

Copy by EMAIL:

Joseph F. Castiglione, Esq.
Member/Partner
Young / Sommer LLC
Attorneys at Law
Executive Woods
Five Palisades Drive
Albany, NY 12205
jcastiglione@youngsommer.com
Telephone: (518) 438-9907

By:

New York, NY