



**PART I: INSPECTION SUMMARY**

On: November 5, 2020 Time: 12:10 p.m.  
(Date of Inspection) (a.m. or p.m.)

At: Browning School District #9 Transportation Facility  
(Facility Name and Identification Number)

Address: SE corner Grey Rd and Young Brother Rd  
Browning, Montana 59417

Name of On-site Representative if not the Owner or Operator:  
Teri DeRoche

Name and address of the UST Owner or Operator (circle which applies):  
 Name: Browning Public Schools  
 Address: 129 1st Avenue SE  
Browning, Montana 59417

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. 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 EPA under Subtitle I of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. § 6991 et seq.).

1. Violation: Failure of overfill prevention system to alert the transfer operator

Cite: 40 CFR 280.20(c)(1)(ii)(B) Proposed Penalty: \$ 670

2. Violation: \_\_\_\_\_  
 Cite: \_\_\_\_\_ Proposed Penalty: \$ \_\_\_\_\_

3. Violation: \_\_\_\_\_  
 Cite: \_\_\_\_\_ Proposed Penalty: \$ \_\_\_\_\_

4. Violation: \_\_\_\_\_  
 Cite: \_\_\_\_\_ Proposed Penalty: \$ \_\_\_\_\_

5. Violation: \_\_\_\_\_  
 Cite: \_\_\_\_\_ Proposed Penalty: \$ \_\_\_\_\_

PROPOSED PENALTY TOTAL: \$ 670

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

MARTA GRABOWSKI Digitally signed by MARTA GRABOWSKI  
Date: 2022.02.11 17:31:41 -0700 Date: \_\_\_\_\_  
(Signature of Authorized Officer or Employee of 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 \$ 670 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 EPA's jurisdiction with respect to the Compliance Order and this Settlement Agreement, and consents to 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 EPA signs the Settlement Agreement, 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. 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 EPA and is binding on 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 8, EPA, or his or her authorized delegate. Upon final approval, EPA shall mail a copy of this document to the Owner or Operator signing below.

SIGNATURE BY OWNER, OPERATOR, OR AUTHORIZED REPRESENTATIVE:

Name (print): Francis W Bull (a/f)  
 Title (print): transportation supervisor  
 Signature: Francis W Bull (a/f) Date: 4-28-22

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): Janice Pearson  
 Title (print): RCRA-OPA Branch Chief  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Notes:

5/5/2022

8:16 AM

**Received by  
 EPA Region VIII  
 Hearing Clerk**

## INSTRUCTIONS

On the reverse side is an Underground Storage Tank (UST) Field Citation Form (Form) for expedited settlement. If you, the Owner or Operator, wish to settle this case using this Form, you must do the following:

1. Correct the violation(s) cited in Part I of the Form ("Part I");
2. Pay the total penalty amount listed in Part I in accordance with the directions provided below;
3. Sign the Settlement Agreement in Part II of the Form ("Part II") (or in the case when an Owner or Operator is a corporate entity, have an authorized representative sign it); and

Return the Field Citation Form along with documentation of compliance and payment information (sufficient for EPA to track payment) to EPA at the following address (within the 30-day time limit specified below):

Underground Storage Tank Program (8ENF-RO-O)  
U.S. Environmental Protection Agency  
1595 Wynkoop Street  
Denver, CO 80202-1129

This settlement process is optional. You are not required to submit this Form to EPA. If you do not submit this Form, EPA will conclude that you are not interested in pursuing an expedited settlement. EPA will then consider other actions to resolve these violations including the possibility of formal administrative or judicial enforcement.

Whether you submit the Form or not, you are by law required to correct any noncompliance and comply with all applicable UST requirements. EPA will not approve the Settlement Agreement if there is an alteration of any of the information in the Form or if the payment submitted is less than the full amount of settlement.

**Timeline:** The Form must be postmarked no later than thirty (30) days after the date of the inspection. In the event the Form is sent to you via registered or certified mail, the timeline begins on the date of receipt of that mail. If EPA does not receive the Form within thirty (30) days, EPA will conclude that you do not wish to pursue expedited settlement. EPA will then consider taking other actions to resolve these violations including pursuing formal administrative or judicial enforcement. (Note: All time periods and deadlines in the Form, including these Instructions, are in calendar days. If a deadline falls on a Saturday, Sunday, or federal holiday, EPA will consider the deadline to fall on the next business day.)

**Requesting An Extension:** EPA may grant, at its discretion, an extension of thirty (30) days if you can demonstrate that it is not feasible for you to come into compliance within the initial 30-day time period. You must request that extension in writing before the initial 30-day time period expires. That written request must explain why compliance within 30 days is not feasible and it must contain a schedule for when you will come into compliance (which must not extend beyond the 30-day extension period).

**Requesting that EPA Modify or Withdraw the Form:** If you can document that you were in compliance with the regulations cited in Part I at the time of the inspection, you must submit that documentation to EPA within fifteen (15) calendar days of your receipt of the Form. EPA will review the documentation and may choose to not pursue enforcement or may withdraw some or all of the violations and reissue a modified Form to the Owner/Operator (via certified or registered mail) for any violations that are not withdrawn.

**Payment:** Payment can be made by sending a personal or certified check made out to the "Treasury of the United States" to the following address: U.S. Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000. The check should refer to the Field Citation Form Number (located at the top of the Form). If no such number is provided on the Form, the check should have the name of the facility on it. Other forms of payment such as wire transfers and online payment are also accepted by EPA. For further information on those other forms of payment, please email [CINWD\\_AcctsReceivable@epa.gov](mailto:CINWD_AcctsReceivable@epa.gov) or use the EPA contact listed below.

**Settlement Agreement Certification:** By signing the Settlement Agreement in Part II, you are certifying under penalty of law that you have corrected the violations, submitted true and accurate documentation of compliance, and have paid the penalty. Failure to meet those conditions means you will remain liable for the original violations with the possibility of being liable for additional violations for noncompliance with the Compliance Order and for making a false representation to the U.S. Government.

**EPA Review:** Once EPA has received the Form, EPA will review it and the documentation of compliance, and verify that payment was made. If EPA decides to settle the case using this Field Citation, EPA will sign and approve the Settlement Agreement and the Compliance Order and send a copy of the completed Form to you. Once EPA has signed the Compliance Order and Settlement Agreement, you and EPA are bound by their terms. EPA reserves the right not to pursue settlement under the Field Citation and instead pursue formal enforcement. In that event, you will be promptly reimbursed for the amount you paid into the U.S. Treasury when submitting the Field Citation.

If you have any questions, please contact the Region 8 Underground Storage Tank Program Enforcement Coordinator, Ms. Francisca Chambus 1-(800) 227-8917, extension 312-6782 or at [chambus.francisca@epa.gov](mailto:chambus.francisca@epa.gov).

*Revised July 2020*



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region8>

February 15, 2022

Ref: 8ENF-RO-O

**SENT VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Teri DeRoche, Director of Transportation  
Browning School District #9  
P.O. Box 610  
Browning, MT 59417-0610

Re: Underground Storage Tank Expedited Enforcement Compliance Order and Settlement Agreement (Field Citation), Browning School District #9 Transportation Facility (2010001)

Dear Ms. DeRoche:

The Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6991, *et seq.*, authorizes the U. S. Environmental Protection Agency to issue and enforce regulations concerning underground storage tanks (USTs). On November 5, 2020, a credentialed inspector from the EPA oversaw an inspection at Browning School District #9 Transportation Facility (Transportation Facility) in Browning, Montana, to determine compliance with the UST regulations in 40 CFR Part 280.

At the time of the inspection, the EPA noted a failure to conduct annual operability testing of the automatic tank gauge (ATG). On April 8, 2021, you submitted a checklist to the EPA (dated 12-30-20) indicating that the ATG was operational; however, the tester noted on the checklist that the outside/exterior alarm at the Transportation Facility was not working. Since the outside alarm is used as overfill prevention at the Transportation Facility, an inoperative device constitutes a failure to provide overfill prevention and must be remedied.

The EPA has the authority under RCRA § 9006 to institute enforcement actions such as issuing compliance orders and pursuing civil penalties (not to exceed \$24,730 per day of violation) for violations of the UST regulations. However, for certain violations and under specific circumstances, the EPA proposes a settlement offer, called a "citation." The citation is issued before taking more formal action and offers a discounted penalty that is well below the amount we would typically deem appropriate for the violation. By using the citation, the violations can be resolved expeditiously and without large legal expenditures for either you or the EPA.

Enclosed with this letter is a citation for your outstanding violation(s). If you want to accept this settlement offer, **you must complete the following within 30 days of receipt of the citation:**

1. Complete corrective action(s) and provide proof of compliance:

*40 CFR 280.20(c)(1)(ii)(B) Failure of overfill prevention system to alert the transfer operator - **Have a qualified service provider repair the overfill alarm so that it will alert the transfer operator prior to an overfill. Provide documentation to the EPA.***

2. **Pay the proposed penalty to the U.S. Environmental Protection Agency, Fines and Penalties Office, at the following address:**

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

3. Sign the attached UST Field Citation Form for Expedited Settlement.
4. Return the signed **original** citation, documentation of compliance and a **copy** of your check to:

Marta Grabowski  
U. S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street MC: 8ENF-RO-O  
Denver, CO 80202-1129  
grabowski.marta@epa.gov

You are not required to accept this discounted settlement offer, and you are entitled to challenge the EPA's findings before an administrative law judge. However, such a proceeding would involve the proposal of a higher penalty rather than the discounted amount in the citation. If you do not want to accept the settlement offer or indicate that you *do* want to accept it but do not comply with the citation's requirements **within 30 days**, the EPA will automatically withdraw the citation/offer and may proceed with an enforcement action for these violations. As noted above, because of circumstances including the additional time and expense of preparing an enforcement action, the proposed penalty is likely to be significantly higher than the discounted penalty in the citation settlement offer.

If you have any questions, please contact Marta Grabowski of my staff at (800) 227-8917, extension 312-6057, or me at extension 312-6354.

Sincerely,

**JANICE PEARSON**

Digitally signed by JANICE  
PEARSON  
Date: 2022.02.15 16:31:04 -07'00'

Janice A. Pearson, Chief  
RCRA/OPA Enforcement Branch  
Enforcement and Compliance Assurance Division

Enclosure:

UST Field Citation Form for Expedited Settlement – Transportation Facility

cc:

Gerald Wagner, Blackfeet Tribe Environmental Director, beo.director@gmail.com