

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103



IN THE MATTER OF:)
) DOCKET NO.: RCRA-03-2024-0065
)
)
Energy Transfer Marketing & Terminals)
L.P.)
) EXPEDITED SETTLEMENT AGREEMENT AND
) FINAL ORDER
)
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Respondent,)
)
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)
)
Marcus Hook Industrial Complex)
100 Green Street)
Marcus Hook, PA 19061,)
)
)
)
Facility)
)
)

EXPEDITED SETTLEMENT AGREEMENT

1. Energy Transfer Marketing & Terminals, L.P. (“Respondent”), and the Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 (“Complainant”) enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 3008(a) and (g) of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C § 6928(a) and (g), 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 3 (“EPA”) has jurisdiction over this matter pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), and 40 C.F.R. §§ 22.1(a)(4) and 22.4 of the Consolidated Rules of Practice.
3. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), EPA has authorized the Commonwealth of Pennsylvania to administer a hazardous waste management program in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g. The provisions of the current authorized Pennsylvania Hazardous Waste Management Regulations (“PaHWMR”), codified at 25 Pa. Code Ch. 260a-266a, 266b, and 268a-270a, have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). EPA last authorized revisions to the PaHWMR on June 29, 2009, including incorporation by

- reference of the federal regulations which were in effect as of October 12, 2005. The Code of Federal Regulation citations used herein are to the 2005 Federal regulations in place as of October 12, 2005, when referring to the Federal regulations incorporated by the Pennsylvania regulations.
4. On December 13, 2023, EPA sent a letter to Pennsylvania, through the Pennsylvania Department of Environmental Protection (“PaDEP”), giving prior notice of this enforcement action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
 5. At its facility located at 100 Green Street, Marcus Hook, PA 19061 (“Facility”), Respondent owns and operates a liquid natural gas processing, storage and distribution installation that receives and processes approximately 300,000 gallons of ethane, propane, butane, and other natural gas liquids (“raw NGLs”) via pipeline daily. The Facility initially filters the raw NGLs to remove solids, moisture, and other impurities, then through fractionation, separates the NGLs into their individual components (“products”). The products are then cooled and stored until offsite shipment via truck, rail, or ship. Hazardous waste is generated through production processes, as well as through storage equipment maintenance, in the form of benzene and lead contaminated materials, and ignitable liquids. In 2020, Respondent reported the Facility as a large quantity generator (“LQG”) of hazardous waste under the RCRA ID No. PAR000538058 and on April 25, 2019, was issued a RCRA Part B permit by PaDEP under number PAR000538058, which allows for the onsite accumulation of hazardous waste for up to one (1) year.
 6. Complainant alleges that, at all times relevant to the allegations described in this Agreement, Respondent was and continues to be a Limited Partnership and is therefore a “person,” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and PaHWMR, and at all times relevant to the allegations in this Agreement was the “operator” and the “owner” of a “facility,” described in Paragraph 5, as the terms “facility”, “owner” and “operator” are defined in 40 C.F.R. § 260.10, as incorporated by reference in PaHWMR.
 7. At all times relevant to the allegations described in this Agreement, Respondent “stored” “hazardous waste” at the Facility, including, but not limited to Waste Petroleum Crude Oil, Lead Paint Chips, Spent Carbon, Transmix Filters, Methanol, Crude Oil Impacted Solids, Fluorescent Lamps, Batteries, with EPA Hazardous Waste Numbers D001, D002, D003, D004, D006, D007, D008, D009, D018, U002, U019, U052, U055, U056, U115, U188, U220, U239, as the terms “stored” and “hazardous waste” are defined in 40 C.F.R. § 260.10, as incorporated by reference in PaHWMR.
 8. On March 29, 2023, EPA representatives conducted a Compliance Evaluation Inspection at the Facility to determine compliance with the applicable hazardous waste regulations.
 9. Based on the observations during the Inspection, Complainant alleges and finds that Respondent failed to comply with specific requirements of Subtitle C of RCRA, 42 U.S.C. §§ 6921 et seq., its implementing regulations at 40 C.F.R. Parts 262, 264, 265, and the

federally-authorized Pennsylvania hazardous waste management regulations set forth in the Pennsylvania Hazardous Waste Management Regulations (“PaHWMR”), 25 Pa. Code Ch. 260a-266a, 266b, and 268a-270a.

10. Complainant has identified the following violations at the Facility:

a. On March 29, 2023, Respondent failed to make a hazardous waste determination for several containers of solid waste, in violation of 25 PA § 262.a10 which incorporates by reference 40 CFR § 262.11.

- (1) Discarded in a plastic trash bag, within an open dumpster near the vehicle refueling area, a partially-filled container of Sherwin Williams Protective & Marine Coatings Hi-Solids Polyurethane 250 Semi-Gloss (Ultradeep Base), #B65 TJ 354. Container was approximately half-filled (approximate volume = 4 gallons). The SDS for the paint lists the flashpoint as 13°C (55.4°F) [Pensky-Martens Closed Cup]. Section 13 of the SDS, “Disposal considerations”, states the following: “Care should be taken when handling emptied containers that have not been cleaned or rinsed out. Empty containers or liners may retain some product residues. Vapor from product residues may create a highly flammable or explosive atmosphere inside the container.”
- (2) Discarded in a plastic trash bag, within an open dumpster near the vehicle refueling area, a partially-filled container of Sherwin Williams Protective & Marine Coatings Acrolon™ 218 HS, Polyurethane – Gloss; #B65W611. Container was nearly half-filled (approximate volume = 4 gallons). The lid did not appear completely secured (visible gaps). The SDS for the paint lists the flashpoint as 21°C (69.8°F) [Pensky-Martens Closed Cup]. Section 13 of the SDS, “Disposal considerations”, states the following: “Care should be taken when handling emptied containers that have not been cleaned or rinsed out. Empty containers or liners may retain some product residues. Vapor from product residues may create a highly flammable or explosive atmosphere inside the container.”
- (3) Discarded in a plastic trash bag, within an open dumpster near the vehicle refueling area, a partially-filled container of Sherwin Williams Protective & Marine Coatings, Macropoxy® 646, Part A; Fast Cure Epoxy Mastic (Mill White); #B58W610. The container was closed and felt empty. The SDS for the paint lists the flashpoint as 26°C (78.8°F) [Pensky-Martens Closed Cup]. Section 13 of the SDS, “Disposal considerations”, states the following: “Care should be taken when handling emptied containers that have not been cleaned or rinsed out. Empty containers or liners may retain some product residues. Vapor from product residues may create a highly flammable or explosive atmosphere inside the container.”

- b. From at least April 27, 2022 until February 6, 2023, as listed in numbers 1-4 below, Respondent failed to properly complete Uniform Hazardous Waste Manifests, according to the instructions by not having the RCRA ID of the destination facility documented in Block 8 on the form (TSDF - Giant Resource and Recovery 482 Seven Mile Road, Harleyville, SC 29448 – RCRA ID - SCD003351699), in violation of 25 PA § 262.a10 which incorporates by reference 40 CFR § 262.20 (a)(1).
- (1) Uniform Hazardous Waste No. 002405614GBF, shipped 04/27/2022.
 - (2) Uniform Hazardous Waste No. 002405613GBF, shipped 12/19/2022.
 - (3) Uniform Hazardous Waste No. 002405616GBF, dated 01/30/2023.
 - (4) Uniform Hazardous Waste No. 002405614GBF, dated 02/06/2023.
11. Complainant and Respondent agree that settlement of this matter for a total penalty of **TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00)** is in the public interest. In calculating this amount, Complainant considered the statutory factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and with specific reference to EPA’s October 1990 RCRA Civil Penalty Policy, as revised in June 2003 (“RCRA Penalty Policy”), and the 2021 RCRA Expedited Settlement Agreement Pilot.
12. Respondent agrees that, within 30 days of the effective date of this Agreement, Respondent shall make a payment of **TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00)** to “**United States Treasury**” with the case name, address and docket number of this Agreement (RCRA-03-2024-0065), for the amount specified above. Respondent shall pay the assessed penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
13. Within 24 hours of payment, 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:

Eric Greenwood, Enforcement Officer (3ED22)
U.S. EPA, Region 3
greenwood.eric@epa.gov

and


Regional Hearing Clerk (3RC00)
U.S. EPA, Region 3
R3_Hearing_Clerk@epa.gov

14. In signing this Agreement, 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 Consent Agreement and Final Order.
15. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that (1) the alleged violations have been corrected, and (2) any documentation or information provided to EPA was true and accurate.
16. 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.
17. 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.
18. 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.
19. This Agreement is effective upon filing, in accordance with 40 C.F.R. § 22.31(b).
20. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind Energy Transfer Marketing & Terminals L.P.
21. 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: greenwood.eric@epa.gov (for Complainant), and kevin.smith2@energytransfer.com (for Respondent).
22. By signing this Agreement, Respondent acknowledges that this Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge

and belief, this Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.

For Respondent: Energy Transfer Marketing & Terminals L.P.

Date: 2/26/24

By: 
NAME: Edward Hannon
TITLE: VP - Marcus Hook Ops

For Complainant: U.S. Environmental Protection Agency, Region 3

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 3, 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.

[Digital Signature and Date]

Karen Melvin, Director
Enforcement and Compliance Assurance Division

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 C of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6921 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.

[Digital Signature and Date]

Joseph J. Lisa
Regional Judicial Officer
U.S. EPA - Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	
Energy Transfer Marketing & Terminals L.P.	:	
Respondent,	:	U.S. EPA Docket No. RCRA-03-2024-0065
	:	
	:	Proceeding under Section 3008(a) and (g) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6928(a) and (g)
Marcus Hook Industrial Complex	:	
100 Green Street	:	
Marcus Hook, PA 19061,	:	
	:	
Facility.	:	

CERTIFICATE OF SERVICE

I certify that the foregoing *Expedited Settlement Agreement and Final Order* was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the *Expedited Settlement Agreement and Final Order*. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Kevin Smith, Sr. Specialist – Environmental Compliance
Marcus Hook Industrial Complex/ Energy Transfer Marketing & Terminals L.P.
Kevin.smith2@energytranser.com
100 Green Street
Marcus Hook, PA 19061

Eric Greenwood
Enforcement Officer
U.S. EPA, Region 3
Greenwood.eric@epa.gov

[Digital Signature and Date]
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 3