

U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 7
11201 Renner Boulevard, Lenexa, Kansas 66219
UNDERGROUND STORAGE TANK FIELD CITATION FORM FOR EXPEDITED SETTLEMENT
DOCKET NO. RCRA-07-2016-0020

PART I: INSPECTION SUMMARY

On: August 11, 2015
(Date of Inspection)

At: Kicks 66
(Facility Name and Identification Number)

Address: 2505 Abbott DR PLZ
Omaha, NE
68110
(Name of Onsite Representative if not the Owner or Operator)

Name and address of the UST Owner or Operator (indicate which applies).

Name: Petro III, LLC

Address: 1230 S 120th ST
Omaha, NE
68184

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

1. Violation: Failure to monitor tanks at least every 30 days.
ATG was not programmed to give 0.2 gph test and no interstitial sensor reports at time of inspection.

Cite: 40 CFR § 280.41(a) [NSFM: 7002.01]

Proposed Penalty: \$ 420

2. Violation: Failure to provide adequate line leak detector system for underground piping.

Cite: 40 CFR § 280.44(a) [NSFM: 7005.01]

Proposed Penalty: \$ 210

3. Violation: Failure to provide adequate line tightness testing system for underground piping system.

Cite: 40 CFR § 280.44(b) [NSFM: 7005.01]

Proposed Penalty: \$ 210

PROPOSED PENALTY TOTAL: \$ 840

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

 Date: 5/13/16
(Signature of Authorized Officer or Employee of the 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 \$840 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 the EPA's jurisdiction with respect to the Compliance Order and this Settlement Agreement, and consents to the 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 the EPA signs the Settlement Agreement, the 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. The 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 the EPA and is binding on the 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 7, EPA, or his or her authorized delegate. Upon final approval, the EPA shall mail a copy of this document to the Owner or Operator signing below.

SIGNATURE BY OWNER, OPERATOR, OR AUTHORIZED REPRESENTATIVE:

Name (print): Dennis W Clark
Title (print): member

Signature:  Date: 4/18/2016

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): KARINA BORROMEO
Title (print): REGIONAL JUDICIAL OFFICER

Signature:  Date: 5-16-16

Notes:

INSTRUCTIONS

On the reverse side is an Underground Storage Tank Field Citation Form for Expedited Settlement (Form). 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
4. Return the Field Citation Form along with documentation of compliance and payment information (copy of the check would suffice) to the EPA at the following address (within the 30-day time limit specified below): Eduardo A. Ortiz, EPA Region 7 AWMD/STOP, 11201 Renner Boulevard, Lenexa, KS 66219.

5.

This settlement process is optional. You are not required to submit this Form to the EPA. If you do not submit this Form, the EPA will conclude that you are not interested in pursuing an expedited settlement. The 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. The 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 the EPA does not receive the Form within thirty (30) days, the EPA will conclude that you do not wish to pursue expedited settlement. The 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, the EPA will consider the deadline to fall on the next business day.)

Requesting An Extension: The 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 the 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 the EPA within fifteen (15) calendar days of your receipt of the Form. The 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 Docket 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 the EPA. For further information on those other forms of payment, please email 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 the EPA has received the Form, the EPA will review it and the documentation of compliance, and verify that payment was made. If the EPA decides to settle the case using this Field Citation, the EPA will sign and approve the Settlement Agreement and the Compliance Order and send a copy of the completed Form to you. Once the EPA has signed the Compliance Order and Settlement Agreement, you and the EPA are bound by their terms. The 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 Eduardo A. Ortiz at 913-551-7928 or Ortiz.Eduardo@epa.gov.

IN THE MATTER Of Kicks 66, Respondent
Docket No. RCRA-07-2016-0020

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy emailed to Attorney for Complainant:

rosado-chaparro.wilfredo@epa.gov

Copy by First Class Mail to Respondent:

Dennis W. Clark
Member
Kicks 66
2505 Abbott Drive Plaza
Omaha, Nebraska 68110

Dated: 5/16/16



Kathy Robinson
Hearing Clerk, Region 7

