

FILED

May 22, 2024

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**U.S. EPA REGION 5
HEARING CLERK**

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

Docket No.: RCRA-05-2024-0007

City of Sartell

125 Pine Cone Rd N

EPA ID. No. MND985668342

Respondent

**EXPEDITED SETTLEMENT
AGREEMENT AND
FINAL ORDER**

EXPEDITED SETTLEMENT AGREEMENT

1. The Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (“EPA”), Region 5 (“Complainant”) and City of Sartell (“Respondent”) enter into this Resource Conservation and Recovery Act (“RCRA”) Expedited Settlement Agreement (“Agreement”) to settle the civil violations set forth in this Agreement for a penalty of \$3,750.
2. EPA inspected City of Sartell – Lagoon #3 on June 27, 2023, and reviewed additional information provided on August 30, 2023. Complainant has determined Respondent violated the following sections of RCRA, and the Minnesota hazardous waste management program, Minn. Stat. chs. 115 and 116, Minn. R. 7001.0010 to 7001.0730, and Minn. R. 7045.0020 to 7045.1400., at Respondent’s facility located at 12th Street North and 7th Avenue West, Sartell, Minnesota 56377 (the “Facility”):
 - a. Permit Condition 5.1.2 of the Post-Closure Care Permit issued on April 8, 2022, states, the contingency plan must contain all applicable items listed in Minn. R. 7045.0466, subp. 4. Respondent failed to include items 4(C), a description of arrangements agreed to by local emergency personnel pursuant to part 7045.0464; 4(D), an up-to-date list of names, addresses, and office and home telephone numbers of all persons qualified to act as emergency coordinator; and 4(E), a list of all emergency equipment at the facility. In addition, the plan must include the location and a physical description of each item on the list and brief outline of its capabilities. Items 4.(C), (D), and (E) were insufficient and outdated in the contingency plan provided by Respondent for Lagoon #3 on August 30, 2023.

- b. Permit Condition 5.1.7 of the Post-Closure Care Permit issued on April 8, 2022, states, the Co-Permittees shall amend the contingency plan whenever the designated emergency coordinator changes in accordance with Minn. R. 7045.0466, subp 6(D). The contingency plan must be reviewed and immediately amended, if necessary, whenever the list of emergency coordinators changes. On August 30, 2023, the Respondent provided the January 26, 2015, Permit Application for Lagoon #3 stating the contingency plan was located in Section E of the application. The contingency plan listed an emergency contact that retired in 2016 and failed to amend the contingency plan to update a new and current emergency contact.
- c. Permit Condition 5.1.9 of the Post-Closure Care Permit issued on April 8, 2022, states, the Co-Permittees shall maintain a copy of its contingency plan at the City of Sartell City Hall and SPX Headquarters at all times, in accordance with Minn. R. 7045.0466, subp 5(A). On June 27, 2023, the Respondent was unable to provide a copy of its contingency plan in violation of the permit condition 5.1.9.
- d. Permit Condition 5.1.10 of the Post-Closure Care Permit issued on April 8, 2022, states, the Co-Permittees shall submit a copy of its Contingency Plan to all local police departments, fire departments, hospitals, and all local and state emergency response teams in accordance with Minn. R. 7045.0466, subp 5(B). On August 30, 2023, the Respondent provided the January 26, 2015 Permit Application for Lagoon #3 stating the contingency plan was located in Section E of the application. Upon review of Section E there was not a description of arrangements made with local emergency response entities per Minn. R. 7045.0466, subp. 5(B).
- e. Permit Condition 5.1.72 of the Post-Closure Care Permit issued on April 8, 2022, states, the Co-Permittees shall maintain at the City of Sartell City Hall and SPX Headquarters at all times a copy of the most recent MPCA-approved version of a contingency plan as set forth in the Permit Application, and that meets the requirements of Minn. R. 7045.0466. On June 27, 2023, the Respondent was unable to provide a copy its contingency plan in violation of the permit condition 5.1.72.
- f. Permit Condition 5.1.99 of the Post-Closure Care Permit issued on April 8, 2022, each well shall be equipped with a locking cap and protective posts. Each well shall be provided with a cement collar at the surface to divert drainage away from the well casing. At the top of the well casing, the well number shall be permanently marked on each well at the Facility in accordance with Minn. R. 7045.0484. On June 27, 2023, compliance well P-5B did not have legible markings on the exterior well casing and the lock broke due to age and rust when opened preventing the well from being relocked. Compliance well P-5A did not have protective posts surrounding the well, part of the concrete collar

was damaged on the south side of the well, and the exterior well casing was unmarked. Compliance well P-5R was missing a well cap. Compliance wells P-14A and P-14B did not have protective posts around the wells. Compliance well P-7 did not have an a visible well number on the exterior of the well casing and did not have protective posts. Compliance well P-13 was observed with a bent protective post, no interior tubing, and missing interior cap. Gas vapor well (G-8) had upheaval of its concrete collar and a bent well head. Groundwater well P-4 was missing proper protective posts and an interior cap.

3. The EPA and Respondent agree that settlement of this matter for a civil penalty of three thousand seven hundred fifty dollars (\$3,750) is in the public interest.
4. EPA is authorized to enter into this Agreement pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. §§ 22.13(b), and 22.18(b)(2)–(3).
5. EPA provided notice of commencement of this action to the state of Minnesota pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
6. In signing this Agreement, Respondent: (1) admits that Respondent is subject to RCRA and its implementing regulations; (2) admits that EPA has jurisdiction over Respondent and Respondent’s conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; (5) waives the opportunity for a hearing pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b); and (6) waives any right to contest the allegations contained herein or to appeal the Final Order.
7. 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) Respondent has paid the civil penalty in accordance with paragraph 8.
8. Respondent shall have paid a civil penalty of three thousand seven hundred fifty dollars (\$3,750) within 30 days of its receipt of the letter setting forth the opportunity for expedited settlement. Payment of a civil penalty may be made online at www.pay.gov. To pay online at www.pay.gov use the Search Public Forms option and enter ‘sfo 1.1’ in the search field then open form and complete required fields. If a respondent is unable to pay the penalty online at www.pay.gov, contact Andrea Dierich at Dierich.andrea@epa.gov to make alternative arrangements.
9. Respondent shall have sent a notice of payment that states Respondent’s name, complete address, and the case docket number to EPA at the following addresses, when it paid the penalty:

Regional Hearing Clerk
U.S. EPA, Region 5
r5hearingclerk@epa.gov

Andrea Dierich
Land Enforcement and Compliance Assurance Branch
U.S. EPA, Region 5
Dierich.andrea@epa.gov and
r5lecab@epa.gov

Robert Smith
Office of Regional Counsel
U.S. EPA, Region 5
smith.roberth@epa.gov

10. The civil penalty is not deductible for federal tax purposes.
11. This Agreement resolves only Respondent's liability for federal civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for the violations alleged in the Agreement.
12. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
13. Each party shall bear its own costs and fees, if any.
14. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.
15. In accordance with 40 C.F.R. § 22.6, the parties consent to service of this Agreement by e-mail at the following valid e-mail addresses: smith.roberth@epa.gov (for Complainant), and Anna.gruber@sartellmn.com (for Respondent).
16. Respondent understands that the ESA will become publicly available upon filing.

IT IS SO AGREED,

Anna Gruber

Name (print)

City Administrator

Title (print)

Alan Gull

Signature

4.25.2024

Date

APPROVED BY EPA:

**MICHAEL
HARRIS**

Digitally signed by
MICHAEL HARRIS
Date: 2024.05.02
09:28:55 -05'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

**In the Matter of:
City of Sartell
Docket No.: RCRA-05-2024-0007**

FINAL ORDER

This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Expedited Settlement Agreement and Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED:

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5