



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

AUG 27 2019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7018 0680 0001 1668 4437

William Paladino, Manager
6253 Group, Inc.
295 Main Street, Suite 210
Buffalo, New York 14203

Re: Underground Storage Tank (UST) Compliance Inspection of UST facilities Owned by the
6253 Group, Inc.

Expedited Settlement Agreement
Docket No. RCRA-02-2019-7707

Dear Mr. Paladino:

The U.S. Environmental Protection Agency (EPA) Region 2 is in receipt of 6253 Group, Inc.'s penalty payment of \$5,900, the signed Expedited Settlement Agreement, and the documentation that the USTs at the above referenced facilities are now in compliance. By signing the Expedited Settlement Agreement, you have agreed to the terms of the Expedited Settlement Agreement and Final Order and have certified that all violations cited in the proposed Expedited Settlement Agreement were corrected.

Enclosed you will find a copy of the Expedited Settlement Agreement and Final Order issued by EPA. EPA has approved the Expedited Settlement Agreement based on your signed certification and supporting compliance documentation. EPA will not seek a civil penalty for the violations listed in the Proposed Expedited Settlement Agreement provided that all listed violations were timely corrected. EPA may choose to re-inspect the USTs located at 6253 Group, Inc.'s facilities and if EPA identifies any violations of federal UST regulations during the re-inspection or from any other information obtained by EPA, such findings would be 6253 Group, Inc.'s second violation of federal underground storage tank (UST) regulations. A second offense may result in a civil or judicial action which can include seeking penalties of up to \$24,017 per UST system per day of violation.

If you have any questions regarding this letter or any other related matter, please contact Hiep Tran of my staff at (212) 637-4280 or by e-mail at tran.hiep@epa.gov. Thank you for your cooperation.

Sincerely,

Claudia Gutierrez, Team Leader
UST Team

Enclosure

cc: Kevin Hale
NYSDEC
Chief – Facility Compliance Section
Division of Environmental Remediation
625 Broadway 11th Floor
Albany, NY 12233-7020

0105 5 5 2014

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION II**

IN THE MATTER OF:

Docket No. RCRA-02-2019-7707

6253 Group, Inc.

**EXPEDITED SETTLEMENT
AGREEMENT AND
FINAL ORDER**

Respondent

EXPEDITED SETTLEMENT AGREEMENT

1. The United States Environmental Protection Agency (“EPA”) has determined that 6253 Group, Inc. (“6253 Group, Inc.” or “Respondent”), the owner and/or operator of the Underground Storage Tanks (“USTs”) at the following locations: Allentown Trading Company, 553 Delaware Ave, Buffalo, NY 14202 and Downtown Trading Company, 51 Broadway, Buffalo, NY 14203, collectively known as the “Facilities,” failed to comply with the following requirement(s) of Subtitle I of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6991 *et seq.*, and its implementing regulations at 40 C.F.R. Part 280.
 - a) 40 C.F.R. §280.93(a) requires that all UST system owners or operators must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks.

Downtown Trading Company 51 Broadway Buffalo, NY 14203 PBS #: 9-088935	Allentown Trading Company 553 Delaware Avenue Buffalo, NY 14202 PBS #: 9-220817
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During the March 27, 2017 Inspection (“March Inspection”) of the above-referenced USTs owned by the 6253 Group, neither the Downtown Trading Company nor the Allentown Trading Company was able to demonstrate that it had third-party liability insurance at the time of March Inspection. In an email sent to EPA Enforcement Officer Mr. Hiep Tran dated September 20, 2018, Ms. Lori Carbaugh, Legal Counsel of Ellicott Development, on behalf of the 6253 Group, provided proof of third-party liability insurance for both the Downtown Trading Company, and the Allentown Trading Company with an effective start date of August 27, 2018. Therefore, the 6253 Group failed to have financial assurance for the USTs it owned at both the Downtown Trading Company and the Allentown Trading Company from at least March 27, 2017, if not earlier, through August 27, 2018 in violation of 40 C.F.R §280.93(a).

- b) 40 C.F.R. § 280.41(a) requires owners and operators of USTs to monitor their tanks at least every 30 days for releases.

During the March Inspection at the Downtown Trading Company, EPA's contract inspector Mr. Jeffrey Blair was not shown records of the monthly release detection monitoring for the Premium Tank for the twelve (12) month period prior to EPA's March Inspection. In EPA's July 21, 2017 Notice of Violation ("NOV") and IRL ("July 2017 NOV/IRL"), EPA sought copies of the monthly release detection monitoring records for the Premium Tank at the Downtown Trading Company. In the October 3, 2017 Response ("October 2017 Response") to the July 2017 NOV/IRL, Ms. Carbaugh failed to provide or to address the missing monthly release detection monitoring records for the Premium Tank at the Downtown Trading Company. By failing to provide the monthly release detection monitoring records for the Premium Tank, at the Downtown Trading Company, the 6253 Group is in violation of 40 C.F.R. §280.41(a)(1).

- c) 40 C.F.R. § 280.41(b)(1)(i)(B) requires owners and operators of USTs that utilize pressurized piping, must have annual line tightness test conducted in accordance with § 280.44(b) or have monthly monitoring conducted in accordance with § 280.44(c).

During the March Inspection at the Allentown Trading Company, Mr. Blair noted the two pressurized lines had last been tested on July 2, 2015. Mr. Blair noted that there were no historical records of conducting annual line tightness tests on the two pressurized lines at the facility within the twelve months prior to the inspection. In its February 16, 2018 NOV/IRL, EPA sought copies of all records pertaining to the pressurized line tests that had been conducted on the two lines situated at the Allentown Trading Company since 2015. In the Respondent's March 26, 2018 Response ("March 2018 Response") to the February 2018 NOV/IRL, Ms. Carbaugh specifically stated:

Item 7, Note 11, CA Norris, the company that replaced the lines on August 24, 2016 at the Allentown Trading Company, has had problems with their records and are not able to provide those testing results you are requesting although they do advise that the testing was done. We have asked repeatedly but to no avail. We have enclosed the 2017 results. We do not have any copies of prior results.

Mr. Tran thereafter contacted Ms. Dawn Riedel, Project Manager of CA Norris, to confirm whether CA Norris had, in fact, performed any line tightness tests on the two pressurized lines at the Allentown Trading Company within the twelve months prior to the March Inspection as suggested by the 6253 Group's March 2018 Response. In an email sent to Mr. Tran, dated September 7, 2018, Ms. Riedel, specifically stated:

We were not contracted to do any annual compliance testing (product lines or leak detectors). (emphasis added)

Therefore, the 6253 Group failed to test the two pressurized lines for the twelve months period prior to the March Inspection and is in violation of 40 C.F.R. § 280.41(b)(1)(i)(B).

- d) 40 C.F.R. § 280.44(a) requires owners and operators of USTs that utilize pressurized piping, must have an automatic line leak detector (ALLD) installed on the USTs and that the ALLD be tested annually to ensure that it can detect leak of 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour.

During the March Inspection at the Allentown Trading Company, Mr. Blair noted the two USTs with pressurized lines were last tested on July 2, 2015 and the next tests on these two pressurized lines were due on July 2, 2016. Mr. Blair noted that there were no historical records of conducting ALLD tests on the two pressurized lines at the facility within the twelve months prior to the inspection. In its February 16, 2018 NOV/IRL, EPA sought copies of all records pertaining to the ALLD tests that had been conducted on these two pressurized lines since 2015. In the company's March 2018 Response, Ms. Carbaugh specifically stated:

Item 7, Note 11, CA Norris, the company that replaced the lines on August 24, 2016 at the Allentown Trading Company, has had problems with their records and are not able to provide those testing results you are requesting although they do advise that the testing was done. We have asked repeatedly but to no avail. We have enclosed the 2017 results. We do not have any copies of prior results.

The EPA thereafter contacted Ms. Riedel, by email, to confirm whether CA Norris had performed the requisite ALLD tests on the two pressurized lines at the facility within the twelve months prior to the inspection. In an email sent to Mr Tran dated September 7, 2018, Ms. Riedel specifically stated:

We were not contracted to do any annual compliance testing (product lines or leak detectors). (emphasis added)

Therefore, the respondent failed to conduct the required ALLD test for the two pressurized lines within one year of the previous test and the Respondent is in violation of 40 C.F.R. § 280.44(a).

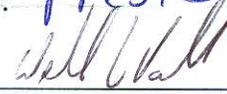
2. The EPA and the Respondent agree that settlement of this matter for a penalty of **\$5,900** is in the public interest.
3. The EPA is authorized to enter into this Expedited Settlement Agreement and Final Order ("Agreement") pursuant to section 9006 of RCRA and 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).
4. In signing this Agreement, the Respondent: (1) admits that the Respondent is subject to requirements listed in Paragraph 1, above, (2) admits that the EPA has jurisdiction over the Respondent and the Respondent's conduct as alleged herein, (3) neither admits nor denies the factual determinations contained herein, (4) consents to the assessment of the penalty described in Paragraph 2, above, and (5) waives any right to contest the determinations contained therein.
5. By its signature below, the Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it has: (1) corrected the

- 6. violations EPA has identified in Paragraph 1, above, (2) submitted true and accurate documentation of those corrections, (3) provided a deposit for payment of the civil penalty in Paragraph 2 above in accordance with the EPA penalty payment procedures provided to the Respondent, (4) submitted true and accurate proof of deposit for payment of the civil penalty with this Agreement, and (5) agrees to release the deposit for payment to the EPA upon entry of this Order.
- 7. Full payment of the penalty as described in Paragraph 2, above, shall only resolve Respondent's liability for federal civil penalties for the violations and facts described in Paragraph 1, above. 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 violation of law.
- 8. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Agreement shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.
- 9. Upon signing and returning this Agreement to the EPA, the Respondent waives the opportunity for a hearing or appeal pursuant to Section 9006(b) of RCRA or 40 C.F.R. Part 22. In addition, if the Respondent is a Federal agency, the Respondent waives its right to confer with the Administrator pursuant to section 6001 (b)(2) of RCRA.
- 10. Each party shall bear its own costs and fees, if any.
- 11. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon the date of its filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 2, New York, New York.

IT IS SO AGREED,

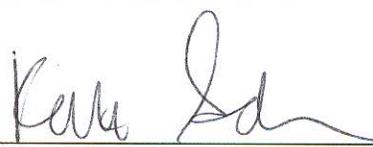
Name (print): William Paladino

Title (print): President

Signature: 

Date 7/21/19

APPROVED BY EPA:



Dore F. LaPosta, Director
Enforcement & Compliance Assurance Division

Date 8/20/19

In the Matter of 6253 Group, Inc
Docket No. RCRA-02-2019-7707

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Expedited Settlement Agreement. This Agreement, entered by the parties to this matter, 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 its filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 2, New York, New York. 40 C.F.R. § 22.31(b).

BY: Helen Ferrara
Helen Ferrara
Regional Judicial Officer
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007-1866

DATE: August 22, 2019

6253 Group, Inc.
Docket No, RCRA-02-2019-7707

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed Expedited Settlement Agreement and Final Order bearing docket number RCRA-02-2019-7707, in the following manner to the respective addressees listed below:

Original and Copy
By Hand Delivery:

Office of the Regional Hearing Clerk
U.S. Environmental Protection
Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

Copy by Certified Mail/#:
Return Receipt Requested:

William Paladino, Manager
6253 Group, Inc.
295 Main Street, Suite 210
Buffalo, New York 14203

Dated: August 27, 2019

Mary C. Loggione