

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

U.S. EPA-REGION 3-RHC
FILED-12AUG2019AM10:37

IN THE MATTER OF:

Shark's Cove Marina
57 Madison Avenue
Fenwick Island, DE 19944
Facility ID #5000391

Facility,

Dingo LLC
7315 Wisconsin Avenue
Suite 400 West
Bethesda, MD 20814

Docket No.: RCRA-03-2019-0097

**EXPEDITED SETTLEMENT
AGREEMENT AND FINAL ORDER**

Respondent.

EXPEDITED SETTLEMENT AGREEMENT

1. This Expedited Settlement Agreement ("Agreement") is entered into by the Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III ("EPA" or "Complainant"), and Dingo LLC ("Respondent"), pursuant to Section 9006 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C § 6991e, 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)).
2. EPA alleges that Respondent, owner and/or operator of the UST located at Sharks Cove Marina, 57 Madison Avenue, Fenwick Island, Delaware 19944 ("Facility"), failed to comply with specific requirements of Subtitle I of RCRA, 42 U.S.C. §§ 6991 *et seq.*, its implementing regulations at 40 C.F.R. Part 280, and the federally authorized Delaware Regulations Governing Underground Storage Tanks (DRGUST).
3. EPA has jurisdiction over the above-captioned matter pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, and 40 C.F.R. §§ 22.1(a)(4) and 22.4 of the Consolidated Rules of Practice.

4. Respondent is a “person” and is the “operator” and/or “owner” of “underground storage tanks” (“USTs”) and “UST systems,” located at the Facility, as those terms are defined in DRGUST Part A Section 2;
5. At the time of the August 18, 2017 Compliance Evaluation Inspection, and at all times relevant to the applicable violations alleged herein, one UST, as described in the following subparagraph, was located at the Facility:
 - a. A two thousand eight hundred (2,800) gallon tank that was installed in or about August 1998, and that, at all times relevant hereto, routinely contained regular-grade gasoline, a “regulated substance” as that term is defined in DRGUST Part A Section 2;
6. EPA has identified the following violations:
 - a. From June 9, 2015 through March 8, 2018, Respondent failed to perform annual line tightness testing in violation of DRGUST Part B § 1.09A(5).
 - b. From June 9, 2015 through March 8, 2018, Respondent failed to perform annual line leak detector testing in violation of DRGUST Part B § 1.09A(3).
7. The EPA and the Respondent agree that settlement of this matter for a penalty of **\$5,640.00** is in the public interest and has been calculated in accordance with the statutory factors set forth in Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), and the Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations and Revised Field Citation Program and ESA Pilot, effective October 5, 2018.
8. Respondent agrees that within 30 days of the effective date of this Agreement (the date it is filed with the Regional Hearing Clerk), Respondent shall submit a check with the case name, address and docket number of this Agreement (RCRA-03-2019-0097), for the amount specified above, payable to “**United States Treasury**,” U.S. Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000.

Copies of the payment are to be sent to:

Marie Owens Powell
UST Compliance Enforcement Officer
U.S. EPA Region III (Mail Code 3ED22)
1650 Arch Street
Philadelphia, PA 19103; and,

Regional Hearing Clerk
U.S. EPA Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029.

9. In signing this Agreement, the Respondent: admits the jurisdictional allegations set forth in this Agreement; neither admits nor denies the specific factual allegations and conclusions of law set forth 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 set forth 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; and bear its own costs and attorney's fees.
10. By its signature below, the Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that he or she has: (1) corrected the alleged violations, and (2) submitted true and accurate documentation of those corrections.
11. This Agreement and attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations alleged in this Agreement.
12. 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 RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.
13. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.
14. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind Dingo LLC to this Agreement.

In the matter of: Dingo LLC

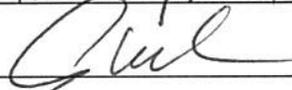
Docket No: RCRA-03-2019-0097

IT IS SO AGREED,

For Respondent: Dingo LLC

Name (print): STEVEN HIMMELFARB

Title (print): TRUSTEE/AUTH SIGNATORY

Signature: 

Date 7/29/2019

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

AUG 7 2019
Date


Karen Melvin, Director
Enforcement and Compliance Assurance Division

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate 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 Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of Subtitle I of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6991 *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.

Aug 12 2019
Date



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

