UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



REGION 2 290 BROADWAY NEW YORK, NY 10007-1866

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<u>CERTIFIED MAIL-RETURN RECEIPT REQUESTED</u> Article Number: 7015 3010 0000 7504 1082

Raymond Sweirkowski, Supervisor Town of Oyster Bay 150 Miller Pl. Syosset, NY 11791

Re: Underground Storage Tank (UST) Compliance Inspections of:

Town of Oyster Bay Lake Ave. Garage Lake Ave. Oyster Bay, NY 11791 Nassau County Fire Marshal No.: NAU38891

Final Expedited Settlement Docket No, RCRA-02-2016-7702

Dear Mr. Sweirkowski:

The U.S. Environmental Protection Agency (EPA) Region 2 is in receipt of the Town of Oyster Bay's penalty payment of \$6,390, 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 take no further civil action against you for the violations listed in Proposed Expedited Settlement Agreement provided that all listed violations were timely corrected. EPA may choose to re-inspect the USTs located at Town of Oyster Bay's facility, 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 Town of Oyster Bay'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 \$22,587 per UST system per day of violation

If you have any questions regarding this letter or any other related matter, please contact me at (212) 637-4237 or by e-mail at sacker.paul@epa.gov. Thank you for your cooperation.

Sincere

Paul Sacker, Acting Team Leader UST Team

Enclosure

cc: Russ Brauksieck (w/Enclosure) NYSDEC Chief – Facility Compliance Section Division of Environmental Remediation 625 Broadway 11th Floor Albany, NY 12233-7020

> Carrie Meek Gallagher (w/Enclosure) DEC Region 1 50 Circle Road Stony Brook, NY 11790-3409

Lawrence E. Eisenstein MD, FACP (w/Enclosure) Commissioner of Health Nassau County Department of Health 200 County Seat Drive Mineola, NY 11501

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY **REGION II**

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IN THE MATTER OF:

Town of Oyster Bay

Respondent

Docket No. RCRA-02-2016-7702

EXPEDITED SETTLEMENT AGREEMENT AND **FINAL ORDER**

EXPEDITED SETTLEMENT AGREEMENT

- 1. The U.S. Environmental Protection Agency ("EPA") has determined that the Town of Oyster Bay (the "Town" or "Respondent"), owner and operator of the Underground Storage Tanks ("USTs") at the Facility at Lake Ave. Oyster Bay, NY 11791(the "UST Facility"), 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.
 - 40 C.F.R. §280.44(a) requires that owners/operators of USTs that utilize pressurized a. 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 leaks of 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour. An EPA enforcement officer observed that there were no historical records of the Town having conducted an automatic line leak detector (ALLD) test on the two pressurized lines at the facility within the twelve months prior to his inspection on July 27, 2015. On September 11, 2015, the EPA enforcement officer contacted the Town of Oyster Bay and spoke to Richie Reiner, the mechanic, who maintains the USTs at all the Town's facilities, and inquired if an ALLD test was conducted at this facility in the twelve months prior to the July 27, 2015 EPA Inspection. Mr. Reiner admitted that there were no ALLD tests conducted for the Lake Avenue facility. The Town of Oyster Bay violated 40 C.F.R. §280.44(a) by failing to conduct an annual ALLD test for the period of at least July 27. 2014 through July 27, 2015.
 - b. 40 C.F.R. §280.45 requires that all UST system owners and operators must maintain records in accordance with §280.34 demonstrating compliance with all applicable requirements of this subpart and must maintain the results of any sampling, testing, or monitoring for at least one year. The enforcement officer noted that while the Town conducts release detection for the two tanks via continual statistical leak detection via an automatic tank gauge and electronic interstitial monitoring for the tanks and

associated pressurized lines, there were no historical records of any release detection monitoring for the twelve months prior to the inspection. Mr. Reiner also told the EPA enforcement officer that the Veeder Root System was not programmed to provide twelve months of records. As a result of the Inspection, the Town is now printing out the release detection records for the lines and tanks on the first of the month. The Town of Oyster Bay violated 40 C.F.R. §280.45 by failing to maintain records of release detection monitoring for its two tanks and pressurized lines for the period of at least July 27, 2014 through July 27, 2015.

- 2. The EPA and the Respondent agree that settlement of this matter for a penalty of \$6,390 without further proceedings 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 above in Paragraph 1, (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 this penalty, and (5) waives any right to contest the determinations contained herein.
- 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 alleged violations, (2) submitted true and accurate documentation of those corrections, (3) provided a deposit for full payment of the civil penalty in Paragraph 2 above in accordance with the EPA penalty collection procedures provided to the Respondent, (4) submitted true and accurate proof of deposit for full payment of the civil penalty with this Agreement, and (5) agrees to release the deposit for full payment to the EPA upon entry of this Order.
- 6. Upon filing, this Expedited Settlement Agreement and Final Order shall constitute full settlement of the Respondent's civil liabilities under Section 9006 of RCRA for the violation(s) described in paragraph 1, above.
- 7. The EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by the Respondent of RCRA, any other federal statute or regulation, or for any violations alleged to have been corrected pursuant to this Agreement that were not corrected.
- 8. 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.
- 9. Each party shall bear its own costs and fees, if any.
- 10. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

IT IS SO AGREED,

RESPONDENT:

Name of individual signing (print): Kichard T. Betz Town of Oyster Bay Title: Commissioner of PW uhan Signature: APPROVED BY EPA:

Date: 8-4-16

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Dore F. LaPosta, Director Division of Enforcement and Compliance Assistance

The Town of Oyster Bay Docket No. RCRA-02-2016-7702

Date 8/19/16

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Expedited Settlement Agreement ("Agreement"). This Agreement, entered into 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: Kelin Ferrara

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

DATE: Sept 8, 2016

Town of Oyster Bay Docket No, RCRA-02-2016-7702

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-02-2016-7702, in the following manner to the respective addressees listed below:

Original and Copy By Hand Delivery:

Copy by Certified Mail/ Return Receipt Requested: Office of the Regional Hearing Clerk U.S. Environmental Protection Agency, Region 2 290 Broadway, 16th Floor New York, NY 10007-1866

Raymond Sweirkowski, Supervisor Town of Oyster Bay 150 Miller Pl. Syosset, NY 11791

Dated: 09/ 12, 2016

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