

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION II**

IN THE MATTER OF:) Docket No. RCRA-02-2016-7701
)
XPO Logistics Freight, Inc.,)
) **EXPEDITED SETTLEMENT AGREEMENT**
) **AND**
Respondent.) **FINAL ORDER**
_____)

REGIONAL HEARING
2016 MAR 16 PM 1:57
U.S. Environmental
Protection Agency-Reg 2

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency (“EPA”) alleges that XPO Logistics Freight, Inc. (purchaser of Con-Way Freight, Inc.) (“Respondent”), is an owner or operator of the Underground Storage Tank(s) (USTs) at 49-15 Maspeth Avenue, Maspeth, NY 11378 (the “UST Facility”), and 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. §280.31(a) requires that all corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground. Con-Way Freight failed to operate and maintain its corrosion protection system continuously for at least the period of July 1, 2015 to July 2, 2015; and,
 - b. 40 C.F.R. §280.31(c) requires that the UST systems with impressed current cathodic protection systems be inspected every 60 days to ensure the equipment is running properly. The inspectors found that the 60-day rectifier log was not current as the last entry was dated September 8, 2014. A July 7, 2015 e-mail from Con-Way Freight, Inc. ("Con-Way"), indicates that it was still attempting to locate rectifier records. To date, the records have not been submitted. Con-Way violated 40 C.F.R. § 280.31(c) by failing to ensure proper operation of its cathodic protection system by conducting inspections of its impressed current rectifier every 60 days, or in the alternative violated 40 C.F.R. § 280.31(d)(1) by failing to maintain the last three inspection records.
2. The EPA and the Respondent agree that settlement of this matter for a penalty of \$3,190 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).

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 violations identified 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 collection procedures provided to the Respondent, (4) submitted true and accurate proof of deposit for payment of the civil penalty with this Agreement, and (5) agreed to release the deposit for 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): THOMAS W. CLARK

Title: SENIOR VICE PRESIDENT, OPERATIONS

Signature: 

Date: 2/19/16

APPROVED BY EPA:


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

Date: March 10, 2016

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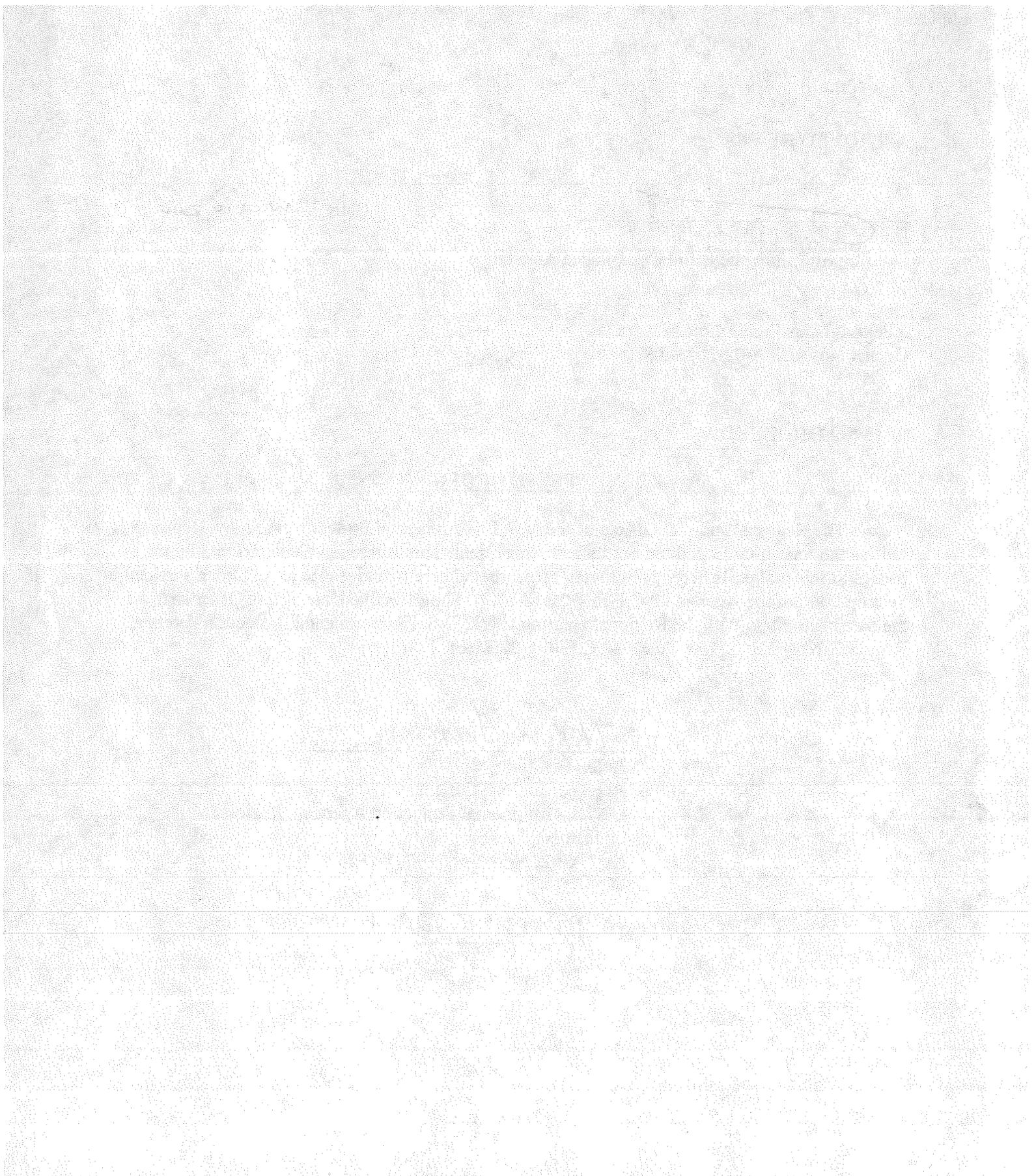
IT IS SO ORDERED:

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Expedited Settlement 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: Helen Ferrara
Helen Ferrara
Regional Judicial Officer
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007-1866

DATE: March 10, 2016



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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-02-2016-7701, 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:

Jeff Sexten
Manager of Environmental Compliance
XPO Logistics Freight, Inc.,
2211 Old Earhart Road
Ann Arbor, MI 48105

Dated: March 16, 2016

Mary C. Casgrove

