

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 Elm Street, Suite 500
Dallas, Texas 75270**

In the Matter of	§	
	§	
Southwest Shipyard LP Channelview,	§	Docket No. RCRA-06-2024-0964
	§	
Respondent.	§	

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

1. The U.S. Environmental Protection Agency, Region 6 (“EPA”) is authorized to enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 3008 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928 and 40 C.F.R. § 22.13(b).

2. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), EPA has provided notice to the state of Texas of this action.

3. Southwest Shipyard LP Channelview (“Respondent”) is the owner or operator of the facility located at 18310 Market St., Channelview, Texas 77530 (the “Facility”). The EPA alleges that Respondent violated the following requirements of RCRA and the EPA approved and authorized Texas hazardous waste management program:

- a. Pursuant to 30 TEX.ADMIN.CODE § Chapter 335.53 [40 Code of Federal Regulations § 262.17(a)(5)(i)(A) and (B)], A large quantity generator must mark or label its containers with the following: (A) The words “Hazardous Waste”; (B) An indication of the hazards of the contents...Pursuant to 40 C.F.R. §262.17(a)(1)(iv), a container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste. The facility failed to properly mark or label eight hazardous waste containers and failed to close several of 12, 55-gallon containers of hazardous waste while being accumulated.

- b. Pursuant to 30 TEX.ADMIN.CODE § Chapter 335.262(c), [40 C.F.R. § 273], Except as otherwise provided in this section, the following definitions and requirements apply to persons managing paint and paint-related wastes. Those requirements which apply to universal wastes in general and the definitions under the following regulations, as adopted by reference under § 335.261 of this title (relating to Universal Waste Rule). The facility failed to comply with this section with three improperly labeled containers of paint and paint-related waste. Also, these containers were not marked with an accumulation start date, nor did the facility demonstrate the length of time that this waste had been accumulated from the date it became a waste or was received as required under 40 C.F.R. 273.35(c).

4. The EPA and Respondent agree that settlement of this matter for a civil penalty of \$12,500 dollars is in the public interest. Respondent certifies that it has provided payment for the full civil penalty amount, and that such payment identified Respondent by name and docket number, was made by certified or cashier's check made payable to the "United States Treasury", and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979078
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

Respondent certifies that the original Agreement and a true and accurate copy of the deposit for payment was submitted to:

U.S. EPA, Region 6
Enforcement and Compliance Assurance Division (ECADSR)
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102
ATTN: Gabriel Salinas
salinas.gabriel@epa.gov

5. In signing this Agreement, Respondent: (a) admits that Respondent is subject to RCRA and the implementing regulations; (b) admits that the EPA has jurisdiction over

Respondent and Respondent's conduct as alleged herein; (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of this penalty; and (e) waives the opportunity for a hearing to contest any issue of fact or law set forth herein; (f) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b); and (g) consents to electronic service of the filed ESA.

6. By signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent: (a) has corrected the alleged violations, as applicable, and has submitted true and accurate documentation of such correction along with this Agreement; (b) has submitted payment of the civil penalty as set forth below; and (c) has submitted a true and accurate proof of payment of the civil penalty along with this Agreement.

7. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Expedited Settlement Agreement and Final Order and to execute and legally bind Respondent to it. Upon the effective date of this Agreement, payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.

8. Full payment of the civil penalty shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. EPA reserves its rights to take enforcement action for any other past, present, or future violations of RCRA, any other federal statute or regulation, or this Agreement.

9. Each party shall bear its own costs and fees, if any.

10. The Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

11. This Agreement authorized by the EPA's execution of the Final Order attached hereto constitutes a final order under 40 C.F.R. Part 22.

12. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State, and local taxes.

13. The EPA and Respondent agree to the use of electronic signatures for this matter pursuant to 40 C.F.R. § 22.6. The EPA and Respondent further agree to electronic service of this Agreement by email to the following:

To EPA: taylor.nathan@epa.gov

To Respondent: bernard.diaz@swwslp.com

RESPONDENT:
Southwest Shipyard LP Channelview

Date: 3/22/2024



Signature

Bernard Diaz

Name

Executive Vice President HSE Operations

Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: March 27, 2024

Cheryl T. Seager
Director
Enforcement
and Compliance Assurance Division
U.S. EPA, Region 6

FINAL ORDER

Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Expedited Settlement Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Expedited Settlement Agreement. In accordance with 40 C.F.R. § 22.31(b), 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.

This Final Order shall resolve only those causes of action alleged in the Expedited Settlement Agreement. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondents' (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action.

IT IS SO ORDERED.

Thomas Rucki
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Expedited Settlement Agreement and Final Order was filed with me, the Regional Hearing Clerk, U.S. EPA – Region 6, 1201 Elm Street, Dallas, Texas 75270-2102, and that I sent a true and correct copy on this day in the following manner to the addressees:

Copy via Email to Complainant, EPA:

taylor.nathan@epa.gov

Copy via Email to Respondent:

bernard.diaz@swwslp.com

Signed
Regional Hearing Clerk
U.S. EPA, Region 6