



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

FEB 12 2019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7016 3560 0000 4262 8765

Gary Wilcox, Compliance Manager
Dandy Mini Marts Inc.
101 North Main Street, Suite 1
Athens, PA 18848

Re: Underground Storage Tank (UST) Compliance Inspection of UST facilities Owned and/or Operated by Dandy Mini Marts Incorporated:
Dandy Mini Mart #49,4083 Lake Road, Burdett, NY 14818, PBS #:8-600726
Dandy Mini Mart #73,6702 County Road 32, Canandaigua, NY 14424, PBS #:8-600871

Expedited Settlement Agreement
Docket No. RCRA-02-2019-7702

Dear Mr. Wilcox:

The U.S. Environmental Protection Agency (EPA) Region 2 is in receipt of Dandy Mini Marts Incorporated's penalty payment of \$6,580, 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 First Group America, 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 First Group America, 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 \$23,426 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

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION II

2019 FEB 12 PM 2:05
U.S. Environmental Protection Agency

IN THE MATTER OF:)	Docket No. RCRA-02-2019-7702
)	
)	
Dandy Mini Marts Incorporated)	EXPEDITED SETTLEMENT
)	AGREEMENT AND
)	FINAL ORDER
)	
Respondent)	

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency (“EPA”) has determined that Dandy Mini Marts Incorporated (“Dandy Mini Marts Incorporated” or “Respondent”), owner and/or operator of the Underground Storage Tank(s) (USTs) at the facilities located at Dandy Mini Mart #49, 4083 Lake Road, Burdett, NY 14818, PBS #:8-600726, and Dandy Mini Mart #73, 6702 County Road 32, Canandaigua, NY 14424, PBS #:8-600871, 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:
 - 40 C.F.R. § 280.44(a) requires that owner/operators of USTs that utilize pressurized piping, must have an automatic line leak detector (ALLD) installed on the USTs and that the ALLD must 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.
 - (1) During the August 23, 2017 UST inspection at Dandy Mini Mart #49 (4083 Lake Road, Burdett, NY 14818), the inspector noted that the two compartmentalized USTs with the four automatic line leak detectors (ALLDs) were last tested on July 20, 2016. The next tests were due on July 21, 2017. The inspector noted that there were no records of ALLD tests having been conducted on the four pressurized lines at the facility within the twelve months prior to the inspection. In its December 19, 2017 response to the NOV/IRL, Respondent provided a copy of the ALLD test dated August 29, 2017. Based on the submittal, the Respondent failed to conduct an ALLD test for the four pressurized lines within one year of a previous test. Therefore, the Respondent was in violation of 40 C.F.R. §280.44(a) from at least July 21, 2017 through August 29, 2017 when the new tests were conducted.
 - (2) During the April 25, 2017 UST inspection at the facility located at Dandy Mini Mart #73 (6702 County Road 32, Canandaigua, NY 14424), the inspector noted

that the two USTs used pressurized piping (two lines for the compartmentalized Gasoline UST and one for the Diesel fuel UST) equipped with three ALLDs which were last tested on April 18, 2016. The next tests were due April 19, 2017. The inspector noted that there were no records of ALLD tests having been conducted on the three pressurized lines at the facility within the twelve months prior to the inspection. In its December 19, 2017 response to the NOV/IRL, Respondent provided a copy of the ALLD test dated May 2, 2017. Based on the submittal, the Respondent failed to conduct an ALLD test for the three pressurized lines within one year of a previous test. Therefore, the Respondent was in violation of 40 C.F.R. §280.44(a) from at least April 19, 2017 through May 2, 2017 when the new tests were conducted.

2. The EPA and the Respondent agree that settlement of this matter for a penalty of \$ 6,580 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 described 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 he or she has: (1) corrected the violations described 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) agrees to release the deposit for payment to the EPA upon entry of this Order.
6. Full payment of the penalty in Paragraph 2 shall only resolve Respondent’s liability for federal civil penalties for the violation(s) 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 violations of law.
7. 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.
8. Each party shall bear its own costs and fees, if any.

9. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon its filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 2, New York, New York.

IT IS SO AGREED,
RESPONDENT

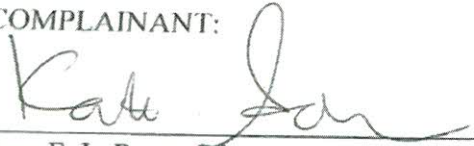
Name (print): GARY WILCOX

Title (print): Safety Director

Signature: 

Date 12/17/18

COMPLAINANT:


~~Dore F. LaPosta~~, Director

Date **FEB - 7 2019**

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, certifies 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: 

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

DATE: February 11, 2019

Dandy Mini Marts Inc.
Docket No, RCRA-02-2019-7702

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-02-2019-7702, 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:

7016 3560 0000 4262 8765
Gary Wilcox, Compliance Manager
Dandy Mini Marts Inc.
101 North Main Street, Suite 1
Athens, PA 18848

Dated: FEB 12 2019, 2019

Mine Rajafinampiantra