

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

In the Matter of:)	DOCKET NO. EPCRA-10-2023-0117
)	
KIVA ENERGY, INC.)	EXPEDITED SETTLEMENT
DBA LP TERMINALS LLC)	AGREEMENT
)	
Manteca, California)	
)	
Respondent.)	

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency (“EPA”) alleges that KIVA ENERGY, INC. DBA LP TERMINALS LLC (“Respondent”) failed to comply with Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

2. Under Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. Part 370, Respondent was required to submit a completed Emergency and Hazardous Chemical Inventory Form (Tier I or Tier II form) as described in 40 C.F.R. § 370.45 for the calendar year on or before March 1, of the following year.

3. Respondent is an owner or operator of the facility at 20715 67th Avenue, Arlington, Washington (“Facility 1”).

4. Facility 1 is subject to the reporting requirements of 40 C.F.R. Part 370 because Facility stores Propane (CAS #000074-98-6) onsite at or above the 10,000-pound reporting threshold. See 40 C.F.R. § 370.10(a).

5. Respondent violated Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. § 370.20 by failing to timely submit an Emergency and Hazardous Chemical Inventory Form to the State Emergency Response Commission (“SERC”), the Local Emergency Planning Commission (“LEPC”), and the fire department with jurisdiction over Facility 1 (“Local Fire Department 1”) for calendar year 2020 by March 1, 2021.

6. The 2020 Emergency and Hazardous Chemical Inventories for Facility 1 was filed with the SERC on February 14, 2022.

7. The 2020 Emergency and Hazardous Chemical Inventories for Facility 1 was filed with the LEPC on February 28, 2022.

8. The 2020 Emergency and Hazardous Chemical Inventories for Facility 1 was filed with the Local Fire Department 1 on February 14, 2022.

9. Respondent is an owner or operator of the facility at 701 South 28th Street, Washougal, Washington (“Facility 2”).

10. Facility 2 is subject to the reporting requirements of 40 C.F.R. Part 370 because Facility stores Propane (CAS #000074-98-6) onsite at or above the 10,000-pound reporting threshold. See 40 C.F.R. § 370.10(a).

11. Respondent violated Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. § 370.20 by failing to timely submit an Emergency and Hazardous Chemical Inventory Form to the SERC, the LEPC, and the fire department with jurisdiction over Facility 2 (“Local Fire Department 2”) for calendar year 2020 by March 1, 2021.

12. The 2020 Emergency and Hazardous Chemical Inventories for Facility 2 was filed with the SERC on February 14, 2022.

13. The 2020 Emergency and Hazardous Chemical Inventories for Facility 2 was filed with the LEPC on February 14, 2022.

14. The 2020 Emergency and Hazardous Chemical Inventories for Facility 2 was filed with the Local Fire Department 2 on February 14, 2022.

15. EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$5,000 (the “Assessed Penalty”).

16. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.

17. Payments under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier’s check or certified check must be payable to the order of “Treasurer, United States of America” and delivered to the following address:

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

Respondent must note on the check the title and docket number of this action.

18. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method described in Paragraph 17, on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10
R10_RHC@epa.gov

Erin Williams
U.S. Environmental Protection Agency
Region 10
williams.erin@epa.gov

19. EPA is authorized to enter into this Expedited Settlement Agreement (“Agreement”), and this proceeding for the assessment of a civil penalty is simultaneously commenced and concluded, pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, and 40 C.F.R. § 22.13(b).

20. In signing this Agreement, for purposes of this proceeding, Respondent:
(a) admits that EPA has jurisdiction over Respondent and Respondent’s conduct as alleged above; (b) neither admits nor denies the factual allegations contained in this Agreement; (c) consents to the assessment of this penalty and any conditions stated in this Agreement; and (d) waives any right to contest the allegations above, and its right to appeal the proposed attached Final Order.

21. By its 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 violation(s); (b) agrees to pay the Assessed Penalty; (c) agrees to submit a true and accurate proof of payment of the Assessed Penalty as set forth in Paragraph 15.

22. Upon the effective date of this Agreement and subsequent payment of the Assessed Penalty as set forth in Paragraph 15, Respondent shall be resolved of liability for Federal civil penalties for the violation(s) and facts alleged herein.

23. The penalty, including interest, paid by Respondent pursuant to the requirements of this Agreement, represents civil penalties assessed by EPA, and shall not be deductible for purposes of federal, state, or local income taxes.

24. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of EPCRA, any other federal statute or regulation, or this Agreement. Nothing in this Agreement or Final Order is intended to, nor shall be construed to operate in any way to resolve, any criminal liability of Respondent, and nothing in this Agreement or Final Order shall be construed to limit EPA's authority to take any action against Respondent in response to conditions that may present an imminent and substantial endangerment.

25. Each party shall bear its own costs and attorney's fees, if any.

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

27. This Agreement is binding on the parties signing below. Upon signature of the parties and approval by the Regional Judicial Officer, this Agreement and Final Order shall be filed with the Regional Hearing Clerk. In accordance with 40 C.F.R. § 22.31(b), the Final Order is effective upon filing with the Regional Hearing Clerk.

28. The undersigned representative certifies that he/she is authorized to execute this Agreement and to legal bind Respondent.

IT IS SO AGREED,

Respondent Name (print): _____

Respondent Title (print): _____

Respondent Signature: _____ Date: _____

APPROVED BY EPA:

EDWARD J. KOWALSKI, Director
Enforcement and Compliance Assurance Division
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

In the Matter of:)	DOCKET NO. EPCRA-10-2023-0117
)	
KIVA ENERGY, INC.)	FINAL ORDER
DBA LP TERMINALS LLC)	
)	
Manteca, California)	
)	
Respondent.)	

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Expedited Settlement Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Expedited Settlement Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under EPCRA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall 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. This Final Order does not waive, extinguish, or otherwise affect Respondent’s obligations to comply with all applicable provisions of EPCRA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

IT IS SO ORDERED.

Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: KIVA ENERGY, INC. DBA LP TERMINALS LLC, Docket No.: EPCRA-10-2023-0117**, was filed with the Regional Hearing Clerk and served on the addressees on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered electronically to:

Ms. Erin Williams, EPCRA Coordinator
U.S. Environmental Protection Agency
Region 10
williams.erin@epa.gov

Mr. Darren Pahl, Manager of Operations
Kiva Energy, Inc.
Dba LP Terminals LLC
dpahl@kivaenergy.com

Regional Hearing Clerk
EPA Region 10