



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

OCT 30 2018

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Numbers :7016 3560 0000 4255 4835 - 7016 3560 0000 4255 2787

Harold Geiger, Owner
473 E Delavan, Inc.
P.O. Box 473
Grand Island, NY 14072

Harold Geiger, Owner
1545 Broadway, Inc.
2320 W. Oakfield Rd
Grand Island, NY 14072

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

Table with 2 columns and 2 rows listing facility names and addresses: Texas Gas Convenient Market, The Sheridan Market, Inc., Walden Convenient Mart.

Final Expedited Settlement
Docket No. RCRA-02-2018-7710

Dear Mr. Geiger:

The U.S. Environmental Protection Agency (EPA) Region 2 is in receipt of 473 E Delavan, Inc. and 1545 Broadway, Inc's penalty payment of \$2,550, the signed Expedited Settlement Agreement, and the documentation that the USTs at the above referenced facilities are now in compliance.

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.

Broadway, 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 473 E Delavan, Inc. and 1545 Broadway, 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 Paul Sacker of my staff at (212) 637-4237 or by e-mail at sacker.paul@epa.gov. Thank you for your cooperation.

Sincerely,



Claudia Gutierrez, Team Leader
UST Team

Enclosure

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

Enclosures
Expedited Settlement Agreement
Standard Information for Small Businesses

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION II**

2018 NOV - 1 PM 3:30
RECEIVED
OFFICE OF THE REGIONAL ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY
115 FORT MONROE AVENUE
BUFFALO, NY 14203

IN THE MATTER OF:)	
)	Docket No. RCRA-02-2018-7710
473 E. Delavan, Inc., and)	
1545 Broadway, Inc.)	
)	EXPEDITED SETTLEMENT
)	AGREEMENT AND
Respondents)	FINAL ORDER
)	
)	

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency (“EPA”) has determined that 473 E. Delavan, Inc., and 1545 Broadway, Inc. (henceforth the “Respondents”); owner of the Underground Storage Tanks (“USTs”) at the facility located at:

Texas Gas Convenient Market 473 E Delavan Ave Buffalo, NY 14215 NYSDEC PBS#: 9-221090	The Sheridan Market, Inc. 1066 Sheridan Drive Tonawanda, NY 14150 NYSDEC PBS#: 9-448427
Walden Convenient Mart 599 Walden Ave. Buffalo, NY 14211 NYSEDEC PBS#: 9-459690	

(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. Part 280.93(a) requires that all UST system owners and operators must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks. During the May 17, 2016 UST inspections of the Facilities, the EPA contractor inspector noted that Respondents did not demonstrate a financial responsibility mechanism that would provide third party bodily injury liability for the nine USTs at these Facilities. EPA’s September 15, 2017 and December 5, 2017 IRLs requested Respondents to provide documentation of a financial responsibility mechanism for the USTs that provides third party bodily injury liability coverage from at least twelve months prior to the inspection (May 17, 2015) through the date of receipt of the IRL. Respondents’ October 15, 2017 and December 22, 2017 IRL responses indicated that they did not have third party bodily injury coverage prior to the inspection for any of the USTs. They presented documentation that they had obtained policies providing third party bodily injury liability coverage for the facility at 1066 Sheridan Drive for the period of June 16, 2016 through June 16, 2018 and a similar policy

