

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

U.S. EPA-REGION 3-RHC
FILED-12SEP2019pm12:48

IN THE MATTER OF:

Columbia Island Marina
George Washington Parkway SW
Washington, DC
Facility ID #2005591

Docket No.: RCRA-03-2019-0087

**EXPEDITED SETTLEMENT
AGREEMENT AND FINAL ORDER**

Facility,

Guest Services Inc.
3055 Prosperity Avenue
Fairfax, VA 22031

Respondent.

EXPEDITED SETTLEMENT AGREEMENT

1. This Expedited Settlement Agreement (“Agreement”) is entered into by the Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“EPA” or “Complainant”), and Guest Services Inc. (“Respondent”), pursuant to Section 9006 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C § 6991e, and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and (3)).
2. EPA alleges that Respondent, owner and/or operator of the Underground Storage Tanks located at Columbia Island Marina, George Washington Parkway, SW, Washington, DC (“Facility”), failed to comply with specific requirements of Subtitle I of RCRA, 42 U.S.C. §§ 6991 *et seq.*, its implementing regulations at 40 C.F.R. Part 280, and the federally authorized District of Columbia Department of Natural Resources’ Underground Storage Tank Regulations (“DC Regulations”).
3. EPA has jurisdiction over the above-captioned matter pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, and 40 C.F.R. §§ 22.1(a)(4) and 22.4 of the Consolidated Rules of Practice.

4. Respondent is a “person” and is the “operator” and/or “owner” of “underground storage tanks” (“USTs”) and “UST systems,” located at the Facility, as those terms are defined in DC Regulations, Title 20, Chapter 68.
5. At the time of the November 15, 2017 Compliance Evaluation Inspection, and at all times relevant to the applicable violations alleged herein, two USTs, as described in the following subparagraphs, were located at the Facility:
 - A. A 5,000-gallon tank that was installed in or about September 1990, and that, at all times relevant hereto, routinely contained regular-grade gasoline, a “regulated substance” as that term is defined in DC Regulations, Title 20, Chapter 68; and
 - B. A 5,000-gallon tank that was installed in or about September 1990, and that, at all times relevant hereto, routinely contained diesel, a “regulated substance” as that term is defined in DC Regulations, Title 20, Chapter 68.
6. EPA has identified the following violations:
 - A. District of Columbia Underground Storage Tank Regulations, Municipal Regulations, Title 20, §6004.3 by failing to perform line tightness testing annually from March 21, 2017 to December 22, 2017;
 - B. District of Columbia Underground Storage Tank Regulations, Municipal Regulations, Title 20, §6013.2 by failing to perform line leak detector testing annually from March 21, 2017 to December 22, 2017;
 - C. District of Columbia Underground Storage Tank Regulations, Municipal Regulations, Title 20, §5704.4 and §5901.4 by failing to perform cathodic protection testing every three years from February 4, 2017 to December 1, 2017; and
 - D. District of Columbia Underground Storage Tank Regulations, Municipal Regulations, Title 20, Chapter 67 by failing to provide financial responsibility since February 21, 2017.
7. The EPA and the Respondent agree that settlement of this matter for a penalty of **\$5,810.00** is in the public interest and has been calculated in accordance with the statutory factors set forth in Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), and the Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations and Revised Field Citation Program and ESA Pilot, effective October 5, 2018.
8. Respondent agrees that within 30 days of the effective date of this Agreement (the date it is filed with the Regional Hearing Clerk), Respondent shall submit a check with the case name, address and docket number of this Agreement (RCRA-03-2019-0097), for the amount specified above, payable to “**United States Treasury**,” U.S. Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000.

Copies of the payment are to be sent to:

Marie Owens Powell
UST Compliance Enforcement Officer
U.S. EPA Region III (Mail Code 3ED22)
1650 Arch Street
Philadelphia, PA 19103; and,

Regional Hearing Clerk
U.S. EPA Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029.

9. In signing this Agreement, the Respondent: admits the jurisdictional allegations set forth in this Agreement; neither admits nor denies the specific factual allegations and conclusions of law set forth in this Agreement, except as provided in the jurisdictional admission above; agrees not to contest EPA's jurisdiction with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement the Agreement; expressly waives its right to a hearing on any issue of law or fact set forth in this Agreement and any right to appeal the accompanying Final Order; consents to the issuance of the Agreement and agrees to comply with its terms; and bear its own costs and attorney's fees.
10. 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 alleged violations, and (2) submitted true and accurate documentation of those corrections.
11. This Agreement and attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations alleged in this Agreement.
12. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Sections 22.18(c) and 22.31(a) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.
13. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.
14. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind Guest Services Inc. to this Agreement.

In the matter of: Guest Services Inc.

Docket No: RCRA-03-2019-0087

IT IS SO AGREED,

For Respondent: Guest Services Inc.

Name (print): Gerard T. Galovus

Title (print): CEO

Signature: 

Date 8/26/19

For Complainant: U.S. Environmental Protection Agency, Region III

9/12/19
Date


for Karen Melvin, Director
Enforcement and Compliance Assurance Division

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**EXPEDITED SETTLEMENT
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FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency - Region III, and Respondent Guest Services Inc., have executed a document entitled "Expedited Settlement Agreement," which I hereby ratify as a Consent Agreement in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Expedited Settlement Agreement are accepted by the undersigned and incorporated herein as if set forth at length.


Based upon the representations of the parties in the attached Expedited Settlement Agreement, agreed to therein is based upon consideration of, *inter alia*, the Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations and Revised Field Citation Program and ESA Pilot, effective October 5, 2018, and the statutory factors set forth in 9006(c) of RCRA, 42 U.S.C. § 6991e(c).

NOW, THEREFORE, PURSUANT TO Section 9006 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6991e, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **FIVE THOUSAND EIGHT HUNDRED TEN DOLLARS (\$5,810.00)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of Subtitle I of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6991 *et seq.*, and the regulations promulgated thereunder.

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.

Sept 12, 2019
Date



Joseph J. Lisa
Regional Judicial Officer
U.S. EPA - Region III

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CERTIFICATE OF SERVICE

I certify that on SEP 12 2019, the original and one (1) copy of the foregoing Expedited Settlement Agreement and Final Order, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copy served via United Parcel Service to:

General Counsel
District Manager
Guest Services Inc.
3055 Prosperity Avenue
Fairfax, VA 22031

Copy served via Hand Delivery or Inter-Office Mail to:
Marie Owens Powell (3ED22)
Compliance Enforcement Officer
RCRA Section
Enforcement and Compliance Assurance Division
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Dated: SEP 12 2019


Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III

TRACKING NUMBER: 1Z443 F71A2 9071 1634

