



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

September 30, 2021

**ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED**

Mr. Craig Brown
McArdles Resort
HCR 1 Box 40
Bena, Minnesota 56626
relax@mcardlesresort.com

Re: Notice of Violation and Compliance Order/Settlement Agreement for the Harvey
McArdles Resort, 1014 West Winnie Road NW, Bena, Minnesota. ICIS #140005777
RUST-05-2021-0016

Dear Mr. Brown:

On December 3, 2020, the U.S. Environmental Protection Agency issued a Notice of Violation and a Compliance Order/Settlement Agreement (Field Citation) concerning an underground storage tank (UST) violation (i.e., failure to test/inspect spill and overfill every 3 years) found at the McArdles Resort facility located at 1014 West Winnie Road NW, Bena, Minnesota.

On September 2 and 24, 2021, EPA received your signed copy of the Settlement Agreement and supporting documentation. Also, on September 21, 2021 the EPA finance office confirmed receipt of your payment (check #11923) for a total of \$1,200.00 in penalties.

The Settlement Agreement states that it is effective upon EPA's final approval. I have enclosed a signed and dated copy of the approved Settlement Agreement. The original Settlement Agreement will remain in the EPA's files. We also have accepted and processed your check as part of the settlement process.

If you have any questions, please contact Arturo Cisneros, of my staff, at (312) 886-7447.

Sincerely,

Julie Morris
Digitally signed by Julie
Morris
Date: 2021.09.30
09:13:54 -05'00'

Julie Morris, Acting Chief
Land Enforcement and Compliance Assurance Branch

Enclosure (see email attachment)

cc: Tom Kenney, ORC, kenney.thomas@epa.gov
Ben Benoit, Leech Lake Band of Ojibwe ben.benoit@llojibwe.net

U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA), REGION 5
77 West Jackson Boulevard (LR-17J), Chicago, Illinois 60604-3590
UNDERGROUND STORAGE TANK (UST) FIELD CITATION FORM FOR EXPEDITED SETTLEMENT NO. R5-UST-21-006-AC

Part I: INSPECTION SUMMARY

Part II: SETTLEMENT AGREEMENT/COMPLIANCE ORDER

On 10/28/2020 Time 5:00 pm
 (Date of Violation) (a.m. or p.m.)

At McArdles Resort
 (Name of Facility)

Address: 1014 West Winnie Road NW
Bena, MN 56626

(Name of On site Representative if not the Owner or Operator)

Name and address of the UST Owner or Operator

Name: Craig Brown

Address: 1014 West Winnie Road NW
Bena, MN 56626

A duly designated officer, employee, or representative of the EPA or a duly designated officer or employee of the State or Tribe inspected this facility. EPA has reviewed the inspection report and other relevant materials and has identified the following violation(s) of the UST regulations promulgated or approved by EPA under Subtitle I of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. § 6991 et seq.).

1. Violation: Installation of inadequate spill prevention equipment in a new tank.

Cite: 40 CFR §280.20(c)(1)(i) Proposed Penalty: \$ 530
 x Tanks Multiplier: _____
 Subtotal: \$ 530

2. Violation: Failure to properly and periodically inspect overfill prevention equipment.

Cite: 40 CFR §280.35(a)(2) Proposed Penalty: \$ 670
 x Tanks Multiplier: _____
 Subtotal: \$ 670

3. Violation: _____

Cite: 40 CFR Proposed Penalty: _____
 x Tanks Multiplier: _____
 Subtotal: _____

4. Violation: _____

Cite: 40 CFR Proposed Penalty: _____
 x Tanks Multiplier: _____
 Subtotal: _____

TOTAL PROPOSED PENALTY: \$ 1,200

EPA finds the Owner or Operator in violation of the above referenced UST regulations.

ARTURO CISNEROS

Digitally signed by
 ARTURO CISNEROS
 Date: 2020.12.01
 12:09:43 -06'00'

Date: _____

(Signature of EPA Inspector)

A. Settlement Agreement: The Owner or Operator by signing this Settlement Agreement (or by having an authorized representative sign it) agrees to settle the violations identified in Part I, subject to the following terms and conditions:

The Owner or Operator certifies, subject to civil and criminal penalties for making a false submission to the U. S. Government, that he or she has corrected the violations, submitted true and accurate documentation of their correction, and submitted payment to the U.S. Treasury for the amount of \$ 1,200 in payment of the full proposed penalty amount, as described in Part I of this Form.

The Owner or Operator agrees to comply with the terms of the Compliance Order in Part II.B. Without admitting liability for the violations cited in Part I, the Owner or Operator signing below waives any objections to EPA's jurisdiction with respect to the Compliance Order and this Settlement Agreement, and consents to EPA's final approval of this Settlement Agreement without further notice. The Owner or Operator waives the opportunity for a public hearing pursuant to RCRA section 9006.

Once EPA signs the Settlement Agreement, EPA will take no further enforcement action against the Owner or Operator for the civil violations described in Part I, provided the violations have been timely corrected and the penalty has been paid. EPA does not waive its right to enforce against the Owner or Operator for any other violations not described in Part I and violations of the UST requirements or other requirements listed in Part I that were not corrected in a timely manner.

This Settlement Agreement and Compliance Order will become effective once signed by EPA and is binding on EPA and the Owner or Operator upon signature by both parties. Final approval of the Settlement Agreement and Compliance Order is in the sole discretion of the Regional Administrator, Region 5, EPA, or his or her authorized delegate. Upon final approval, EPA shall mail a copy of this document to the Owner or Operator signing below.

SIGNATURE BY OWNER, OPERATOR, OR AUTHORIZED REPRESENTATIVE:

Name (Print): Craig A. Brown
 Title (Print): President
 Signature: Craig A. Brown Date: 9-13-21

B. Compliance Order: This Compliance Order is issued under the authority of RCRA section 9006 to resolve the civil violations identified in Part I. The Owner or Operator is ordered to correct the violations, submit true and accurate documentation that the violations were corrected, and pay the total penalty amount listed in Part I of this Form. This Compliance Order shall become final and enforceable only upon signature by an EPA official with the authority to sign this document.

SIGNATURE BY EPA APPROVING THE SETTLEMENT AGREEMENT AND COMPLIANCE ORDER:

Name (Print): Patrick Kuefler
 Title (Print): Chief, LCECAB
 Signature: _____ Date: _____

Notes:

Julie Morris

Digitally signed by Julie
 Morris
 Date: 2021.09.30
 09:12:12 -05'00'