

K. Maples



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

FEB - 8 2019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7016 3560 0000 4262 8772

William Guy Kenyon, Owner
Kenyon Limited Partnership
859 Davison Rd.
Lockport, NY 14094

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

Kenyon Limited Partnership
859 Davison Rd.
Lockport, NY 14094

Final Expedited Settlement
Docket No. RCRA-02-2018-7709

Dear Mr. Kenyon:

The U.S. Environmental Protection Agency (EPA) Region 2 is in receipt of Kenyon Limited Partnership's penalty payment of \$3,400, 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 Kenyon Limited Partnership'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 Kenyon Limited Partnership'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.

Page Break

U.S. Environmental Protection Agency
2019 FEB - 8 AM 11:55

If you have any questions regarding this letter or any other related matter, please contact Edward J. Guster III of my staff at (212) 637-4042 or by e-mail at guster.edward@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

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION II

U.S. Environmental Protection Agency
2018 FEB 07 AM 11:55

IN THE MATTER OF:)	Docket No. RCRA-02-2018-7709
)	
)	
Kenyon Limited Partnership)	EXPEDITED SETTLEMENT
)	AGREEMENT AND
)	FINAL ORDER
)	
Respondent)	
)	
)	
)	

EXPEDITED SETTLEMENT AGREEMENT

1. The United States Environmental Protection Agency (“EPA”) has determined that Kenyon Limited Partnership (“Kenyon” or “Respondent”) has been the owner and/or operator of the Underground Storage Tanks (“USTs”) at the following locations: Kenyon’s 8250 Main St. Williamsville NY 14221 ID#9-079251, Kenyon’s Variety 9700 Transit Road, East Amherst, NY 14051 ID# 9-221147, Kenyon's Variety 1121 Lincoln Ave, Lockport, NY 14094 ID# 9-438243, Kenyon's 2897 South Main St., Newfane, NY 14108 ID# 9-422924, Crafts And Creations Inc Dba Kenyon's 5820 Goodrich Rd., Clarence Center, NY 14032 ID# 9-428027, Kenyon's Variety 6550 Robinson Road, Lockport, NY 14094 ID#9-600444, Kenyon’s 6470 Campbell Blvd., Pendleton, NY 14094 ID#9-600510. EPA has further determined that Kenyon had failed to comply with the following requirements 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. §280.93(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.

As a result of the May 12 and May 13, 2016 Inspections of the USTs facilities operated by Kenyon, EPA sought information regarding third-party bodily injury insurance Kenyon had for each of its seven facilities. In a February 7, 2018 email that Mr. William Guy Kenyon, President of Kenyon’s, sent to Mr. Edward Guster, an EPA UST Enforcement Officer in EPA Region 2, Mr. Kenyon stated:

“Enclosed within is the information you requested. *We did have insurance on three (3) sites*, Robinson Road, Newfane and Pendleton through Crum & Forster (attached) for the last four (4) years.”

Therefore, Kenyon failed to document it had, at the time of the May 12 and May 13, 2016 Inspections, third-party bodily injury insurance for its Williamsville, 1121 Lincoln Avenue Lockport, East Amherst and Clarence Center facilities.

2. The EPA and the Respondent agree that settlement of this matter for a penalty of \$3,400 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) and 22.18(b)(2).
4. In signing this Agreement, the Respondent: (1) admits that the Respondent is subject to requirements listed in Paragraph 1, above, (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 the penalty described in Paragraph 2, above, and (5) waives any right to contest the determinations contained therein.
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 it has: (1) corrected the violations EPA has identified in Paragraph 1, 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 payment 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 as described in Paragraph 2, above shall only resolve Respondent’s liability for federal civil penalties for the violations 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 violation 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 the date of its filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 2, New York, New York.

IT IS SO AGREED,

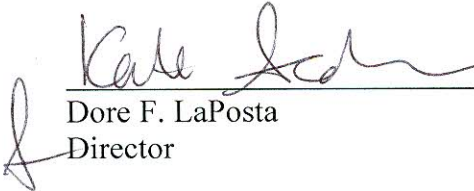
Name (print): William G. Kenyon II

Title (print): President

Signature: William G. Kenyon II

Date 8-15-18

APPROVED BY EPA:



Dore F. LaPosta
Director

Date **FEB - 5 2019**

In the Matter of Kenyon Limited Partnership
Docket No. RCRA-02-2018-7709

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Expedited Settlement 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
Helen Ferrara
Regional Judicial Officer
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007-1866

FEB - 2 2019

DATE: February 6, 2019

Kenyon Limited Partnership
Docket No, RCRA-02-2018-7709

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-02-2018-7709, 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 8772
William Guy Kenyon, Owner
Kenyon Limited Partnership
859 Davison Rd.
Lockport, NY 14094

Dated: FEB - 8 2019, 2019

Aline Razafimananjato

