

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

IN THE MATTER OF:

Long Level Marina
1809 Long Level Road
Wrightsville, PA 17368

Facility,

1809 Long Level Marina Inc.
1809 Long Level Road
Wrightsville, PA 17368

Respondent.

Docket No.: RCRA-03-2019-0124

U.S. EPA-REGION 3-RHC
FILED-12SEP2019PM1:46

**EXPEDITED SETTLEMENT
AGREEMENT AND FINAL ORDER**

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 1809 Long Level Marina 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 tank located at the Long Level Marina facility, 1809 Long Level Road, Wrightsville, Pennsylvania (“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 State of Pennsylvania’s UST management program regulations set forth in the Pennsylvania Code, Title 25, Chapter 245, Sections 245.1 *et seq.*
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 25 Pa. Code § 245.1.

5. At the time of the March 18, 2019 Compliance Evaluation Inspection, and at all times relevant to the applicable violations alleged herein, one (1) UST, as described in the following paragraph, was located at the Facility:
 - A six thousand (6,000) gallon tank that was installed in or about March 1991, and that, at all times relevant hereto, routinely contained regular-grade gasoline, a “regulated substance” as that term is defined in 25 Pa. Code § 245.1 (hereinafter “the UST”).
6. EPA has identified the following violation:
 - From at least January 1, 2018 until March 1, 2018, Respondent failed to conduct tank release detection on the UST, in violation of 25 Pa. Code § 245.442(1)
7. The EPA and the Respondent agree that settlement of this matter for a penalty of **\$940.00** 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 made out to “**United States Treasury**” with the case name, address and docket number of this Agreement (RCRA-03-2019-0124), for the amount specified above, to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Respondent shall send a copy of the payment to:

Melissa Toffel, UST Compliance 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 1809 Long Level Marina Inc. to this Agreement.

For Respondent: 1809 Long Level Marina Inc.

Name (print): Brandon Kline

Title (print): Vice President

Signature: 

Date 8/29/19

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

After reviewing the Expedited Settlement Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

1/12/19
Date

Michael J. Or
for Karen Melvin
Director, Enforcement and Compliance
Assurance Division
U.S. EPA – Region III
Complainant

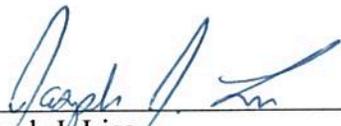
Revised Field Citation Program and ESA Pilot, effective October 5, 2018, and the statutory factors set forth in 9006(c) of RCRA, 42 U.S.C. § 6991e(c).

NOW, THEREFORE, PURSUANT TO Section 9006 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. Section 6991e, and Section 22.18(b)(3) and (3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **NINE HUNDRED AND FORTY DOLLARS (\$940.00)**, in accordance with the payment provisions set forth in the Expedited Settlement Agreement, and comply with the terms and conditions of the Expedited Settlement 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 Expedited Settlement 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, 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

