

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

IN THE MATTER OF:

Cooks Country Store
446 West Reservoir Road
Woodstock, VA 22664
Facility ID No. 6009918

Facility,

Woodstock Interstate Location, LLC
303 Jefferson Street
Winchester, VA 22601

Respondent.

Docket No.: RCRA-03-2019-0048

U.S. EPA-REGION 3-RHC
FILED-28FEB2019PM3:14

**EXPEDITED SETTLEMENT
AGREEMENT AND FINAL ORDER**

EXPEDITED SETTLEMENT AGREEMENT

1. This Expedited Settlement Agreement (“Agreement”) is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“EPA” or “Complainant”), and Woodstock Interstate Location, LLC (“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 USTs located at Cooks Country Store, 446 West Reservoir Road, Woodstock, (“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 Commonwealth of Virginia’s UST management program regulations set forth in the Virginia Administrative Code as Underground Storage Tanks: Technical Standards and Corrective Action Requirements (“VA UST Regulations”), 9 VAC § 25-580-10 *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” as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 9 VAC 25-580-10, 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 9 VAC 25-580-10 (Sections 9001(3), (4) and (10) of RCRA, 42, U.S.C. §§ 6991(3), (4), and (10));.
5. At the time of the April 25, 2018 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. An eight thousand (8,000) gallon tank that was installed in or about March 1984, and that, at all times relevant hereto, routinely contained regular-grade gasoline, a “regulated substance” as that term is defined in 9 VAC 25-580-10;
 - B. A twelve thousand (12,000) gallon tank that was installed in or about March 1984, and that, at all times relevant hereto, routinely contained regular-grade gasoline, a “regulated substance” as that term is defined in 9 VAC 25-250-10;
6. EPA has identified the following violation:

- From August 1, 2017 through January 12, 2018 and from February 18, 2018 through May 8, 2018, Respondent failed to have tank release detection for tanks 1 and 2 as required by 9 VAC 25-580-140.1.
7. The EPA and the Respondent agree that settlement of this matter for a penalty of **\$1,610.00** 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-03-2019-0048), 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 Officer
U.S. EPA Region III (Mail Code 3LC31)
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 Section 22.18(c) 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 Woodstock Interstate Location, LLC to this Agreement.

IT IS SO AGREED,

Name (print): Cary Clayton

Title (print): Managing Member

Signature: 

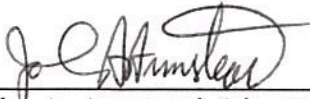
Date 2/13/19

In the matter of: Cooks Country Store

Docket No: RCRA-03-2019-0048

APPROVED BY EPA:

2.26.19
Date



John A. Armstead, Director
Land and Chemicals Division

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Facility,

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**EXPEDITED SETTLEMENT
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FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and the above-captioned Respondent 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, the one thousand six hundred ten dollars (\$1,610.00) penalty agreed to therein was based upon consideration of the statutory factors set forth in 9006(c) of RCRA, 42 U.S.C.

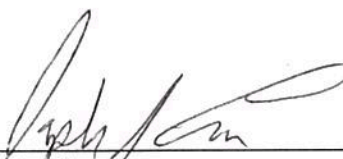
§ 6991e(c) and the Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations and Revised Field Citation Program and ESA Pilot, effective October 5, 2018.

WHEREFORE, 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)(2) and (3) of the Consolidated Rules of Practice, and having determined, based upon the representations of the parties in the attached Expedited Settlement Agreement, that the civil penalty agreed to therein was based upon consideration of the 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,

IT IS HEREBY ORDERED that Respondent pay a civil penalty of One Thousand Six Hundred Ten Dollar (\$1,610.00) in accordance with the payment provisions set forth in the attached Expedited Settlement Agreement and comply with the terms and conditions as specified in the attached Expedited Settlement Agreement.

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.

2-28-2019
Date



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

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CERTIFICATE OF SERVICE

I certify that on FEB 28 2019, the original and one (1) copy of 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 Certified Mail, Return Receipt Requested, Postage Prepaid, [Replace with Overnight, if applicable] to:

Ms. Cary Claytor
Woodstock Interstate Location, LLC
303 Jefferson Street
Winchester, VA 22601

Copy served via Hand Delivery or Inter-Office Mail to:

Marie Owens Powell (3LC31)
Compliance Enforcement Officer
Land and Chemicals Division
U.S. EPA, Region III 1650 Arch Street Philadelphia, PA 19103-2029

Dated: FEB 28 2019

Bethina L. Dunn
U.S. Environmental Protection Agency, Region III

Regional Hearing Clerk

TRACKING NUMBER(S): 1Z A43 F71 A2 9935 5585

