



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

JUN 06 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ref: 8P-R

Mr. Mykel Stockton
Stockton Oil Company, Inc.
1607 4th Avenue North
Billings, Montana 59101-1522

Re: Expedited Enforcement Compliance Order
& Settlement Agreement
Battlefield Express Center Facility
EPA Facility ID Number 2020002

Dear Mr. Stockton:

The Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6991, *et seq.*, authorizes the U. S. Environmental Protection Agency (EPA) to issue and enforce regulations concerning underground storage tanks (USTs). On April 10, 2013, an inspector from EPA's Region 8 office conducted an inspection at Battlefield Express Facility in Crow Agency, Montana, to determine your compliance with the UST regulations in 40 CFR Part 280. At the time of the inspection, the inspector found the following violations:

- | | |
|---------------------------|--|
| 40 CFR § 280.41(a) | Failure to monitor tanks every 30 days |
| 40 CFR § 280.30(a) | Failure to take necessary precautions to prevent overfill/spillage during the transfer of products |
| 40 CFR § 280.41(b)(1)(ii) | Failure to perform annual line tightness test or perform monthly monitoring on pressurized piping |

On April 23, 2013, we received a fax containing automatic tank gauge (ATG) test results for all tanks for April 2013; however, the premium and the dyed diesel tanks have no test results for the time period of May 2012 through March 2013.

The EPA has the authority under RCRA § 9006 to institute enforcement actions such as issuing compliance orders and pursuing civil penalties (not to exceed \$11,000 per tank per day) for violations of the UST regulations. However, for certain violations and under specific circumstances, the EPA proposes a settlement offer, called a "citation". The citation is issued before taking more formal action and offers a discounted penalty that is well below the amount we would typically deem appropriate for the violations. Using the citation, the violation can be resolved expeditiously and without large legal expenditures by either you or the EPA.

Enclosed with this letter is a citation for your violation. If you want to accept this settlement offer, you must complete the following within 30 days of receipt of the citation:

1. Fulfill the following compliance requirements and submit all proof of compliance:

Violation	Compliance Requirement	Provide the following Proof of Compliance
<p><u>40 CFR § 280.41(a)</u> Failure to provide monitor tanks every 30 days</p>	<p>a. Conduct a tank tightness test on the premium and dyed diesel tanks.</p> <p>b. Have a vendor service the ATG to verify that monthly tanks are being conducted.</p>	<p>a. Provide copies of the tank tightness test results for the premium and dyed diesel tanks.</p> <p>b. Provide statement from the vendor indicating that the ATG has been serviced to conduct at least monthly tests on the premium and dyed diesel tanks.</p>
<p><u>40 CFR § 280.30(a)</u> Failure to take necessary precautions to prevent overfill/spillage during the transfer of products</p>	<p>Clean out all spill buckets.</p>	<p>Provide pictures of all spill buckets after they have been properly cleaned.</p>
<p><u>40 CFR § 280.41(b)(1)(ii)</u> Failure to perform annual line tightness test or perform monthly monitoring on pressurized piping</p>	<p>a. Conduct line tightness tests on all lines.</p> <p>b. Clean out all sumps and lower sump sensors to their proper positions.</p>	<p>a. Provide copies of the test results for the line tightness testing.</p> <p>b. Provide pictures of all sumps after they have been properly cleaned out and the sump sensors have been lowered to their proper positions.</p>

2. Pay the proposed penalty to the U.S. Environmental Protection Agency, Fines and Penalties office at the address noted on the back of the citation.
3. Sign the citation where highlighted.
4. Return the signed original copy of the citation, all proof of compliance activities and a copy of your check to the U. S. Treasury to:

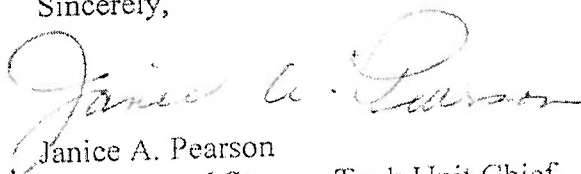
Francisca Chambus
 U. S. Environmental Protection Agency, Region 8
 1595 Wynkoop Street MC: 8P-R
 Denver, CO 80202-1129

You are not required to accept this discounted settlement offer, and you are entitled to challenge EPA's findings before an administrative law judge. However, such a proceeding would involve the proposal of a higher penalty, rather than the discounted amount in the citation. If you do not want to accept the settlement offer or indicate that you *do* want to accept it but do not comply with the

citation's requirements within 30 days, the EPA will automatically withdraw the citation/offer and may proceed with an enforcement action for these violations. As noted above, because of circumstances including the additional time and expense of preparing an enforcement action, the proposed penalty is likely to be significantly higher than the discounted penalty in the citation settlement offer.

If you have any questions, please contact Francisca Chambus of my staff at (800) 227-8917, extension 312-6782.

Sincerely,



Janice A. Pearson
Underground Storage Tank Unit Chief
Resource Conservation and Recovery Program

Enclosure: Citation

cc wo/encl.: Connie Howe, Environmental Director
Environmental Protection Department
P.O. Box 159
Crow Agency, MT 59022-0400



U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA), REGION 8
1595 WYNKOOP STREET
DENVER, CO 80202-1129

UNDERGROUND STORAGE TANK (UST) FIELD CITATION FORM FOR EXPEDITED SETTLEMENT NO.

PART I: INSPECTION SUMMARY

April 10, 2013 Time: 8:50 am
 (Date of Inspection) (a.m. or p.m.)

Battlefield Express (EPA ID 2020002)
 (Facility Name and Identification Number)

Address: Highway 212 & I-80
Crow Agency, MT 59022

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

Name and address of the UST Owner or Operator (circle which applies).
 Name: Mykel Stockton

Address: 1607 4th Avenue North
Billings MT 59101-0000

I, the undersigned, duly designated officer, employee, or representative of the EPA or a duly designated officer or employee of the State or Tribe inspected this facility. I have 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.).

Violation: Failure to Monitor tanks every 30 days

Cite: 280.41(a) Proposed Penalty: \$ 420

Violation: Failure to take necessary precautions to prevent spillage during transfer of products

Cite: 280.30(a) Proposed Penalty: \$ 210

Violation: Failure to have annual line tightness test or perform monthly monitoring

Cite: 280.41(b)(1)(ii) Proposed Penalty: \$ 420

Violation: _____

Cite: _____ Proposed Penalty: \$ _____

Violation: _____

Cite: _____ Proposed Penalty: \$ _____

PROPOSED PENALTY TOTAL: \$ 1050.00

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

[Signature] Date: 6/4/13
 (Signature of Authorized Officer or Employee of EPA)

PART II: SETTLEMENT AGREEMENT/COMPLIANCE ORDER

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 \$ 1050 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 8, 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): _____
 Title (print): _____
 Signature: _____ Date: _____

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): _____
 Title (print): _____
 Signature: _____ Date: _____

Notes:

INSTRUCTIONS

On the reverse side is an Underground Storage Tank (UST) Field Citation Form (Form) for expedited settlement. If you, the Owner or Operator, wish to settle this case using this Form, you must do the following:

1. Correct the violation(s) cited in Part I of the Form ("Part I");
2. Pay the total penalty amount listed in Part I in accordance with the directions provided below;
3. Sign the Settlement Agreement in Part II of the Form ("Part II") (or in the case when an Owner or Operator is a corporate entity, have an authorized representative sign it); and

Return the Field Citation Form along with documentation of compliance and payment information (sufficient for EPA to track payment) to EPA at the following address (within the 30-day time limit specified below):

Underground Storage Tank Program (8P-R)
U.S. Environmental Protection Agency
1595 Wynkoop Street
Denver, CO 80202-1129

This settlement process is optional. You are not required to submit this Form to EPA. If you do not submit this Form, EPA will conclude that you are not interested in pursuing an expedited settlement. EPA will then consider other actions to resolve these violations including the possibility of formal administrative or judicial enforcement.

Whether you submit the Form or not, you are by law required to correct any noncompliance and comply with all applicable UST requirements. EPA will not approve the Settlement Agreement if there is an alteration of any of the information in the Form or if the payment submitted is less than the full amount of settlement.

Timeline: The Form must be postmarked no later than thirty (30) days after the date of the inspection. In the event the Form is sent to you via a registered or certified mail, the timeline begins on the date of receipt of that mail. If EPA does not receive the Form within thirty (30) days, EPA will conclude that you do not wish to pursue expedited settlement. EPA will then consider taking other actions to resolve these violations including pursuing formal administrative or judicial enforcement. (Note: All time periods and deadlines in the Form, including these Instructions, are in calendar days. If a deadline falls on a Saturday, Sunday, or federal holiday, EPA will consider the deadline to fall on the next business day.)

Requesting An Extension: EPA may grant, at its discretion, an extension of thirty (30) days if you can demonstrate that it is not feasible for you to come into compliance within the initial 30-day time period. You must request that extension in writing before the initial 30-day time period expires. That written request must explain why compliance within 30 days is not feasible and it must contain a schedule for when you will come into compliance (which must not extend beyond the 30-day extension period).

Requesting that EPA Modify or Withdraw the Form: If you can document that you were in compliance with the regulations cited in Part I at the time of the inspection, you must submit that documentation to EPA within fifteen (15) calendar days of your receipt of the Form. EPA will review the documentation and may choose to not pursue enforcement or may withdraw some or all of the violations and reissue a modified Form to the Owner/Operator (via certified or registered mail) for any violations that are not withdrawn.

Payment: Payment can be made by sending a personal or certified check made out to the "Treasury of the United States" to the following address: U.S. Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000. The check should refer to the Field Citation Form Number (located at the top of the Form). If no such number is provided on the Form, the check should have the name of the facility on it. Other forms of payment such as wire transfers and online payment are also accepted by EPA. For further information on those other forms of payment, please email CINWD_AcctsReceivable@epa.gov or use the EPA contact listed below.

Settlement Agreement Certification: By signing the Settlement Agreement in Part II, you are certifying under penalty of law that you have corrected the violations, submitted true and accurate documentation of compliance, and have paid the penalty. Failure to meet those conditions means you will remain liable for the original violations with the possibility of being liable for additional violations for noncompliance with the Compliance Order and for making a false representation to the U.S. Government.

EPA Review: Once EPA has received the Form, EPA will review it and the documentation of compliance, and verify that payment was made. If EPA decides to settle the case using this Field Citation, EPA will sign and approve the Settlement Agreement and the Compliance Order and send a copy of the completed Form to you. Once EPA has signed the Compliance Order and Settlement Agreement, you and EPA are bound by their terms. EPA reserves the right not to pursue settlement under the Field Citation and instead pursue formal enforcement. In that event, you will be promptly reimbursed for the amount you paid into the U.S. Treasury when submitting the Field Citation.

If you have any questions, please contact the Region 8 Underground Storage Tank Program Enforcement Coordinator, Ms. Francisca Chambus 1-(800) 227-8917, extension 312-6782 or at chambus.francisca@epa.gov.