

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

U.S. EPA-REGION 3-RHC
FILED-30DEC2019pm2:04

IN THE MATTER OF:)	
)	
Pocono Gas Stations Inc)	Docket No.: RCRA-03-2020-0043
1230 West Main Street)	
Stroudsburg, PA 18360)	
)	
Facility ID #45-16991)	EXPEDITED SETTLEMENT
)	AGREEMENT AND FINAL ORDER
)	
Facility,)	
)	
W.S. Peeney Inc.)	
1745 West Main Street)	
Stroudsburg, PA 18360)	
)	
And)	
)	
Pocono Gas Stations Inc)	
1230 West Main Street)	
Stroudsburg, PA)	
)	
Respondents.)	

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 (“Complainant”), and W. S. Peeney Inc. and Pocono Gas Stations Inc., 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. Complainant alleges that Respondent, owner and/or operator of the Underground Storage Tanks located at Pocono Gas Station located at 1230 West Main Street in Stroudsburg, 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 Pennsylvania Department of Environmental Protection’s Underground Storage Tank Regulations (“PADEP Regulations”).

3. The U.S. Environmental Protection Agency (“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. Respondents are “persons” and are the “operator” and/or “owner” of “underground storage tanks” (“USTs”) and “UST systems,” located at the Facility, as those terms are defined in Pa. Code §245.1.
5. At the time of the August 28, 2019 Compliance Evaluation Inspection, and at all times relevant to the applicable violations alleged herein, four USTs, as described in the following subparagraphs, were located at the Facility:
 - A. A 6,000-gallon tank (Tank 1) that was installed in or about December 1987, and that, at all times relevant hereto, routinely contained regular-grade gasoline, a “regulated substance” as that term is defined in Pennsylvania Code Title 25 Chapter 245 §245.1; and
 - B. A 6,000-gallon tank (Tank 2) that was installed in or about December 1987, and that, at all times relevant hereto, routinely contained super-grade gasoline, a “regulated substance” as that term is defined in Pennsylvania Code Title 25 Chapter 245 §245.1.
 - C. A 4,000-gallon tank (Tank 3) that was installed in or about December 1987, and that, at all times relevant hereto, routinely contained diesel fuel, a “regulated substance” as that term is defined in Pennsylvania Code Title 25 Chapter 245 §245.1.
 - D. A 550-gallon tank (Tank 4) that was installed in or about December 1987, and that, at all times relevant hereto, routinely contained kerosene, a “regulated substance” as that term is defined in Pennsylvania Code Title 25 Chapter 245 §245.1.
6. Complainant has identified the following violations:

Pennsylvania Code Title 25 Chapter 245 §245.442(1) by failing to perform tank release detection on Tank 2 from October 2018 through July 2019.
7. Complainant and the Respondents 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. Respondents agree 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-03-2019-0043), 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 Enforcement 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.

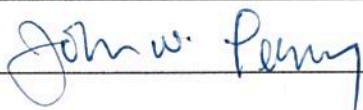
9. In signing this Agreement, the Respondents: admit the jurisdictional allegations set forth in this Agreement; neither admit nor deny the specific factual allegations and conclusions of law set forth in this Agreement, except as provided in the jurisdictional admission above; agree not to contest EPA's jurisdiction with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement the Agreement; expressly waive their 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; consent to the issuance of the Agreement and agree to comply with its terms; and bear its own costs and attorney's fees.
10. By its signature below, the Respondents certify, 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 W. S. Peeney Inc. and Pocono Gas Stations Inc. to this Agreement.

IT IS SO AGREED,

For Respondent: John Peeney, Owner, W. S. Peeney Inc.

Name (print): JOHN W. PEENEY

Title (print): PRESIDENT

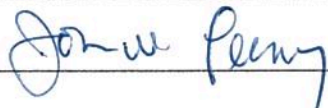
Signature: 

Date 12/9/19

For Respondent: John Peeney, President, Pocono Gas Station Inc.

Name (print): JOHN W. PEENEY

Title (print): PRESIDENT

Signature: 

Date 12/9/19

After reviewing the Consent Agreement and other pertinent matters, the Enforcement and Compliance Assurance Division of the U.S. Environmental Protection Agency, Region III recommends that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

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

DEC 18 2019
Date


Karen Melvin, Director
Enforcement and Compliance Assurance Division

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

U.S. EPA-REGION 3-RHC
FILED-30DEC2019PM2:04

IN THE MATTER OF:

Pocono Gas Stations Inc
1230 West Main Street
Stroudsburg, PA 18360
Facility ID No. 45-16991

Facility,

W.S. Peeney Inc.
1745 West Main Street
Stroudsburg, PA 18360

And

Pocono Gas Stations Inc.
dba Gulf Complete Automotive Repair
1230 West Main Street
Stroudsburg, PA 18360

Docket No.: RCRA-03-2020-0043

**EXPEDITED SETTLEMENT
AGREEMENT AND FINAL ORDER**

Respondents.

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency - Region III, and Respondents W. S. Peeney Inc. and Pocono Gas Stations Inc. dba Gulf Complete Automotive Repair, 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, agreed to therein is based upon consideration of, *inter alia*, the Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations and 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. § 6991e, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **NINE HUNDRED FORTY DOLLARS (\$940.00)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent 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 Consent 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 (“RCRA”), 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.

Dec 30, 2019
Date



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

In the Matter of: W. S. Peeney Inc. and Pocono Gas Stations Inc.
Docket Number: RCRA-03-2019-0043

Dated: DEC 30 2019

Bettina L Dunn

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III

TRACKING NUMBERS 70172620000091427879
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