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HEARINGS CLERK
EPA - REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	
)	DOCKET NO. RCRA-10-2018-0256
KENNETH A. STEDHAM, d/b/a BI-)	
RIGHTS MOTORS COMPANY,)	
)	CONSENT AGREEMENT
Centralia, Washington,)	
)	
Respondent.)	

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 9006 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6991e.

1.2. Pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, EPA granted the State of Washington final authorization to administer and enforce an underground storage tank release detection, prevention, and correction program and to carry out such program in lieu of the federal program.

1.3. Pursuant to Section 9006(a) of RCRA, 42 U.S.C. § 6991e(a), EPA may enforce the federally-approved State of Washington’s Underground Storage Tanks program.

1.4. Pursuant to Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2), notification of this action has been given to the Washington State Department of Ecology.

1.5. Pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, and in accordance with

the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and Kenneth A. Stedham d/b/a Bi-Rights Motors Company (including variations such as Bi-Right Motors Company, Bi Right Motors, Kens Mobile Service, and Kens Service Bi-Right Motors) (“Respondent”) agrees to issuance of, the Final Order attached to this Consent Agreement (“Final Order”).

II. PRELIMINARY STATEMENT

2.1. EPA initiated this proceeding for the assessment of a civil penalty pursuant to Section 9006(d)(2) of RCRA, 42 U.S.C. § 6991e(d)(2), by issuing a Complaint against Respondent on May 17, 2018 (“the Complaint”).

2.2. In the Complaint, EPA alleged that Respondent violated RCRA by failing to permanently close an underground storage tank system as required by Washington Administrative Code 173-360-380(4).

2.3. The complete factual and jurisdictional basis for proposing the assessment of a civil penalty is set forth in the Complaint and is incorporated herein by reference.

2.4. The Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d), to sign consent agreements between EPA and the party against whom an administrative penalty for violations of RCRA is proposed to be assessed.

III. TERMS OF SETTLEMENT

3.1 For the purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint.

3.2 Respondent neither admits nor denies the specific factual allegations contained in the Complaint.

3.3 In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c). After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$1,000 (the "Assessed Penalty").

3.4 Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.

3.5 Payments under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

Respondent must note on the check the title and docket number of this action.

3.6 Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
young.teresa@epa.gov

David Domingo
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-201
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
domingo.david@epa.gov

3.7 If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of the Assessed Penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below. In any collection action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

3.8 If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, Respondent shall also be responsible for payment of the following amounts:

a. Interest. Pursuant to 31 U.S.C. § 3717(a)(1), any unpaid portion of the Assessed Penalty shall bear interest at the rate established by the Secretary of the Treasury from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the Assessed Penalty that is paid within 30 days of the effective date of the Final Order contained herein.

b. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the Assessed Penalty is more than 30 days past due.

c. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the Assessed Penalty that is

more than 90 days past due, which nonpayment shall be calculated as of the date the underlying penalty first becomes past due.

3.9 The Assessed Penalty, including any additional costs incurred under Paragraph 3.8, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

3.10 The undersigned representative of Respondent certifies that he is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

3.11 The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violation alleged in the Complaint.

3.12 Except as described in Paragraph 3.8, each party shall bear its own costs and attorneys' fees in bringing or defending this action.

3.13 For the purposes of this proceeding, Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in this Consent Agreement and to appeal the Final Order.

3.14 The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

3.15 Respondent consents to the issuance of any specified compliance or corrective action order, to any conditions specified in this consent agreement, and to any stated permit action.

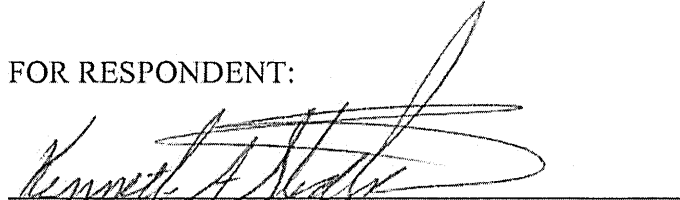
3.16 The above provisions in Part III are STIPULATED AND AGREED upon by

Respondent and EPA Region 10.

DATED:

4-22-19

FOR RESPONDENT:

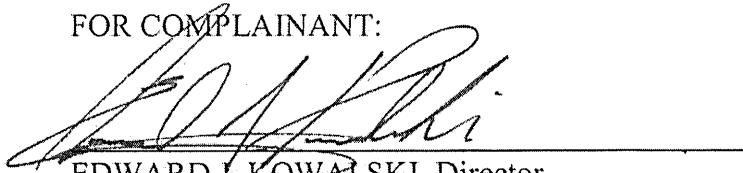


KENNETH A. STEDHAM, Owner
Bi-Rights Motors Company

DATED:

5/8/2019

FOR COMPLAINANT:



EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	
)	DOCKET NO. RCRA-10-2018-0256
KENNETH A. STEDHAM, d/b/a BI-)	
RIGHTS MOTORS COMPANY,)	FINAL ORDER
)	
Centralia, Washington,)	
)	
Respondent.)	


1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under RCRA for the violations alleged in the Complaint. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of RCRA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 14th day of May, 2019.



RICHARD MEDNICK
Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Kenneth A. Stedham d/b/a Bi-Rights Motors Company, Docket No.: RCRA-10-2018-0256**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:


The undersigned certifies that a true and correct copy of the document was delivered to:

Danielle Meinhardt
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Kenneth A. Stedham
Owner
Bi-Rights Motors Company
515 West Main Street
Centralia, Washington 98531

DATED this 15 day of May, 2019.



TERESA YOUNG
Regional Hearing Clerk
EPA Region 10