

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION II**

IN THE MATTER OF:

Blueox Corporation

Respondent

) **Docket No. RCRA-02-2018-7705**

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**EXPEDITED SETTLEMENT
AGREEMENT AND
FINAL ORDER**

EXPEDITED SETTLEMENT AGREEMENT

1. The United States Environmental Protection Agency (“EPA”) has determined that Blueox Corporation (“Blueox” or “Respondent”) the owner and/or operator of the Underground Storage Tanks (“USTs”) at the following locations: Nice & Easy #305, 1321 Dryden Road, Ithaca, NY 14850; Jacksonville Big Blue, 1854 Trumansburg Road, Jacksonville, NY 14854; Nice & Easy #307, 95 Main Street, Fort Plain, NY 13339; Nice & Easy #304, 336 State Route 8, Bridgewater, NY 13313; Lounsbury Truck Stop, 305 Stanton Hill Road, Nichols, NY 13812; Morrisville Big Blue, 13 West Main Street, Morrisville, NY 13408; Blueox Corporation, 2473 Route 12B, Hamilton, NY 13346; Norwich Big Blue, 6077 State Route 12, Norwich, NY 13815; Nice & Easy #302, 4823 State Route 23, Norwich, NY 13815; and Big Blue #309, 1719 State Highway 8, Mount Upton, NY 13809 -failed to comply with the following requirements of Subtitle I of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6991 *et seq.*, and its implementing regulations at 40 C.F.R. Part 280.
 - a) 40 C.F.R. §280.93(a) requires that all UST system owners and operators must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks.

During the July 15 - 19, 2016 Inspections (“July Inspections”) of the above-referenced USTs facilities owned or operated by Blueox, none of the ten facilities were able to document that it had third party liability insurance at the time of July Inspections. In the company’s September 30, 2017 Response (“September 2017 Response”) to a July 27, 2017 Information Request Letter (“July IRL”), Blueox specifically stated:

we acknowledge that formal financial responsibility as you assert is required under 40 C.F.R Section 280.93 was not in effect from July 13, 2011 through July 19, 2016. Attached you will find current policy conforming with

those requirements effective August 01, 2017. It should be noted this is our renewed policy. We purchased coverage immediately following the inspection back in July 2016. *Coverage was not in place during this period as we misinterpreted the requirements of financial responsibility.* (emphasis added.)

- b) 40 C.F.R § 280.45 requires owner and/or operators of USTs to maintain monthly records of release detection monitoring for at least twelve months.

During the July 18, 2016 UST inspection of the facility operated by Blueox Corporation at 2473 Route 12B, Hamilton, NY 13346, the facility was unable to provide release detection records for the UST tanks for the previous twelve months. In its September 2017 Response to the July 2017 IRL, Blueox stated "the lack of monthly release detection monitoring result for each underground storage tank at 2473 Route 12B, Hamilton, NY 13346 was due to the power and data com switch failure."

2. The EPA and the Respondent agree that settlement of this matter for a penalty of \$10,630 is in the public interest.
3. The EPA is authorized to enter into this Expedited Settlement Agreement and Final Order ("Agreement") pursuant to section 9006 of RCRA and 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).
4. In signing this Agreement, the Respondent: (1) admits that the Respondent is subject to requirements listed in Paragraph 1, above, (2) admits that the EPA has jurisdiction over the Respondent and the Respondent's conduct as alleged herein, (3) neither admits nor denies the factual determinations contained herein, (4) consents to the assessment of the penalty described in Paragraph 2, above, and (5) waives any right to contest the determinations contained therein.
5. By its signature below, the Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it has: (1) corrected the violations EPA has identified in Paragraph 1, above, (2) submitted true and accurate documentation of those corrections, (3) provided a deposit for payment of the civil penalty in Paragraph 2 above in accordance with the EPA penalty payment procedures provided to the Respondent, (4) submitted true and accurate proof of deposit for payment of the civil penalty with this Agreement, and (5) agrees to release the deposit for payment to the EPA upon entry of this Order.
6. Full payment of the penalty as described in Paragraph 2, above shall only resolve Respondent's liability for federal civil penalties for the violations and facts described in Paragraph 1, above. Full payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.
7. Upon signing and returning this Agreement to the EPA, the Respondent waives the opportunity for a hearing or appeal pursuant to Section 9006(b) of RCRA or 40 C.F.R. Part 22.

- 8. Each party shall bear its own costs and fees, if any.
- 9. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon the date of its filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 2, New York, New York.

IT IS SO AGREED,

Name (print): Jared Battle

Title (print): Director of operations

Signature: 

Date 3-19-18

APPROVED BY EPA:

APR - 4 2018



Dore F. LaPosta, Director
Division of Enforcement and Compliance Assistance

Date _____

In the Matter of Blueox Corporation
Docket No. RCRA-02-2018-7705

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Expedited Settlement Agreement. This Agreement, entered into by the parties to this matter, is hereby approved, incorporated herein, and issued as an Order pursuant to Section 9006 of the Act and 40 C.F.R. § 22.18(b)(3). The Effective Date of this Order shall be the date of its filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 2, New York, New York. 40 C.F.R. § 22.31(b).

BY: *Helen Ferrara*

Helen Ferrara
Regional Judicial Officer
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007-1866

DATE: April 9, 2018

Blueox Corporation
Docket No. RCRA-02-2018-7705

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed Expedited Settlement Agreement and Final Order bearing docket number RCRA-02-2018-7705, in the following manner to the respective addressees listed below:

Original and Copy
By Hand Delivery:

Office of the Regional Hearing Clerk
U.S. Environmental Protection
Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

Copy by Certified Mail/Return Receipt Requested

Article No.: 7017 1450 000 0133 7386:

Jared Bartle
Director of Operations
Blueox Corporation
38 North Canal Street
Oxford, NY 13830

Dated: April 10, 2018

Mary E. Carbone