



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

UPS

Habiba Laiwalla, President  
Meena Enterprises, Inc.  
13422 Boydton Plank Rd  
Dinwiddie, VA 23841

DEC 06 2012

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

2012 DEC -6 PM 3:08

RECEIVED

Re: Consent Agreement and Final Order  
*In re* Meena Enterprises, Inc., Docket No. RCRA-03-2013-0012

Dear Mr. Habiba Laiwalla:

Enclosed please find the Consent Agreement signed by the parties and the Final Order signed by the Regional Judicial Officer ("CAFO") that has been filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22. Please refer to the CAFO for the compliance tasks you have agreed to implement at the facility in accordance with the terms and conditions of the same. Also enclosed is a copy of the transmittal memo sent with the CAFO to the Regional Judicial Officer.

If you have any questions or concerns, please feel free to call me at (215) 814-2681.

Sincerely,

  
Louis F. Ramalho  
Sr. Assistant Regional Counsel



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

**SUBJECT:** Meena Enterprises, Inc., RCRA-03-2013-0012  
Consent Agreement and Final Order

**FROM:** Marcia Mulkey  
Regional Counsel (3RC00)

*[Handwritten signature of Marcia Mulkey]*  
*[Handwritten signature of Abraham Ferdas]*

Abraham Ferdas, Director  
Land and Chemicals Division (3HS00)

**TO:** Renée Sarajian  
Regional Judicial Officer (3RC00)

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TRANSMITTAL MEMORANDUM

The attached Consent Agreement (“CA”) was entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“EPA” or “Complainant”), and Meena Enterprises, Inc. (“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”), 40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3).

This CA and the Final Order (“FO”) resolve violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and the Commonwealth of Virginia’s federally authorized underground storage tank program with respect to the underground storage tanks (“USTs”) at Respondent’s facility located at 13422 Boydton Plank Road, Dinwiddie, Virginia, (the “Facility”).

EPA has determined that an appropriate civil penalty to settle this matter against the Respondent is \$0 and the implementation of the compliance tasks set forth in the CA. The aforesaid settlement amount was based upon Complainant’s consideration of a number of factors, including, but not limited to, the statutory factors of the seriousness of Respondent’s violations and any good faith efforts by Respondent to comply with all applicable requirements as provided in RCRA Section 9006(c), 42 U.S.C. § 6991e(c), and with EPA’s Penalty Guidance for Violations of UST Regulations (“UST Guidance”) dated November 4, 1990.

We recommend that you sign the attached Final Order. After you have executed the Final Order, please return all of the documents to the Office of Regional Counsel for further processing

CC: Habiba Laiwalla, President  
Meena Enterprises, Inc.  
13422 Boydton Plank Rd  
Dinwiddie, VA 23841

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

**In the Matter of:**

**Meena Enterprises, Inc.  
13422 Boydton Plank Road  
Dinwiddie, VA 23841,**

**RESPONDENT,**

**Village Mart  
13422 Boydton Plank Road  
Dinwiddie, VA 23841**

**FACILITY.**

**CONSENT AGREEMENT**

**Docket No.: RCRA-03-2013-0012**

**Proceeding Under Section 9006 of the  
Resource Conservation and Recovery  
Act, as amended, 42 U.S.C. Section 6991e**

**2012 DEC -6 PM 3:09  
REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA**

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**CONSENT AGREEMENT**

**Preliminary Statement**

This Consent Agreement ("CA") is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("EPA" or "Complainant"), and Meena Enterprises, Inc. ("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"), 40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3).

This CA and the Final Order ("FO") resolve violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and the Commonwealth of Virginia's federally authorized underground storage tank program with respect to the underground storage tanks ("USTs") at Respondent's facility located at 13422 Boydton Plank Road, Dinwiddie, Virginia, (the "Facility").

Effective October 28, 1998, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the Commonwealth of Virginia was granted final authorization to administer a state UST management program in lieu of the Federal UST management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m. The provisions of the Commonwealth of Virginia UST management program, through this final authorization have become requirements of Subtitle I of RCRA and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. The Commonwealth of Virginia's authorized UST program regulations are 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.*

## **I. GENERAL PROVISIONS**

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CA/FO.
2. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CA/FO, except as provided in Paragraph 1, above.
3. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement of the CA/FO.
4. For the purposes of this proceeding only, Respondent hereby 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.
5. Respondent consents to the issuance of this CA/FO and agrees to comply with its terms and conditions.
6. Respondent shall bear its own costs and attorney's fees.
7. The person signing this CA on behalf of the Respondent certifies to EPA by his/or her signature herein that Respondent, as of the date of this CA, is in compliance with the provisions of RCRA, Subtitle I, 42 U.S.C. §§ 6991-6991m, and the Commonwealth of Virginia's federally authorized underground storage tank program 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. at the Facility referenced herein.
8. The provisions of this CA/FO shall be binding upon Respondent, and its officers, directors, employees, successors and assigns.
9. This CA/FO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor does this CA/FO constitute a waiver, suspension or modification of the requirements of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, or any regulations promulgated thereunder.
10. Complainant will have the right to institute further actions to recover appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to EPA regarding matters at issue in this CA are false or, in any material respect, inaccurate. Respondent is aware that the submission of false or misleading information to the United States government may subject Respondent to separate civil and/or criminal liability.
11. Respondent agrees not to deduct, for civil taxation purposes, the civil penalty specified in this CA and the attached FO.

12. EPA has given the Commonwealth of Virginia prior notice of the issuance of this CA/FO in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

## **II. FACTUAL ALLEGATIONS AND CONCLUSIONS OF LAW**

13. The United States Environmental Protection Agency–Region III (“EPA” or the “Region”) and EPA’s Office of Administrative Law Judges have jurisdiction over this matter pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, 40 C.F.R. Part 280 and 40 C.F.R. § 22.1(a)(4) and .4(c).
14. At all times relevant to the alleged violations in this CA, Meena Enterprises, Inc. (“Respondent”) has been a Virginia corporation doing business in the Commonwealth of Virginia.
15. Respondent is a “person” as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 9 VAC § 25-580-10.
16. At all times relevant to the alleged violations in this CA, Respondent has been the “owner” and “operator,” as those terms are defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and (4), and 9 VAC § 25-580-10, of the “underground storage tanks” (“USTs”) and “UST systems” as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and 9 VAC § 25-580-10, located at 13422 Boydton Plank Rd in Dinwiddie, VA 23841 (the “Facility”).
17. On October 5, 2011, an EPA representative conducted a Compliance Evaluation Inspection (“CEI”) of the Facility pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.
18. At the time of the October 5, 2011 CEI, and at all times relevant to the applicable violations alleged herein, five USTs, as described in the following subparagraphs, were located at the Facility:
  - A. A one-thousand (1,000) gallon fiberglass-reinforced-plastic tank that was installed in or about 1996 and that, at all times relevant hereto, routinely contained kerosene, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter “UST No. 1”),
  - B. An eight-thousand (8,000) gallon fiberglass-reinforced-plastic tank that was installed in or about 1996 and that, at all times relevant hereto, routinely contained premium grade gasoline, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter “UST No. 2”),
  - C. A ten-thousand (10,000) gallon fiberglass-reinforced-plastic tank that was installed in or about 1996 and that, at all times relevant hereto, routinely contained regular grade gasoline, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter “UST No. 3”),

- D. A four-thousand (4,000) gallon fiberglass-reinforced-plastic tank that was installed in or about 1996 and that, at all times relevant hereto, routinely contained off-road diesel, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter “UST No. 4”), and
  - E. A four-thousand (4,000) gallon fiberglass-reinforced-plastic tank that was installed in or about 1996 and that, at all times relevant hereto, routinely contained diesel fuel, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter “UST No. 5”).
- 19. At all times relevant to the alleged violations in this CA, USTs Nos. 1, 2, 3, 4, and 5 have been “petroleum UST systems” and “new tank systems” as these terms are defined in 9 VAC § 25-580-10.
  - 20. USTs Nos. 1, 2, 3, 4, and 5 have been, at all times relevant to the alleged violations in this CA, used to store “regulated substance(s)” at Respondent’s Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10, and were not “empty” as that term is defined at 9 VAC § 25-580-310.1.
  - 21. Pursuant to RCRA Section 9005, 42 U.S.C. § 6991d, on November 29, 2011, EPA issued an Information Request to Respondent concerning its petroleum UST systems at the Facility.

**Counts 1-5**  
**Failure to perform monthly release detection**

- 22. Paragraphs 1 through 21 of this CA are incorporated herein by reference.
- 23. Pursuant to 9 VAC § 25-580-130.A. and C., owners and operators of new and existing UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described therein.
- 24. 9 VAC § 25-580-140.1. provides, in pertinent part, that petroleum USTs shall be monitored at least every thirty days for releases using one of the methods listed in 9 VAC § 25-580-160.4.-8., or in 9 VAC § 25-580-140.1.a.-c.
- 25. For the following USTs and intervals, Respondent did not use any of the release detection methods specified in 9 VAC § 25-580-140.1.a.-c. and/or 9 VAC § 25-580-160.4.-8.:
  - A. UST No. 1 for 89 days from 2/1/2011 to 5/1/2011 and for 65 days from 8/1/2011 to 10/5/2011;
  - B. UST No. 2 for 35 days from 6/27/2010 to 8/1/2010, for 36 days from 11/29/2010 to 1/4/2011, and for 66 days from 7/31/2011 to 10/5/2011;

- C. UST No. 3 for 35 days from 6/27/2010 to 8/1/2010, for 36 days from 11/29/2010 to 1/4/2011, and for 66 days from 7/31/2011 to 10/5/2011;
  - D. UST No. 4 for 643 days from 12/31/2009 to 10/5/2011; and
  - E. UST No. 5 for 38 days from 6/29/2009 to 8/6/2009, for 35 days from 3/31/2010 to 5/5/2010, for 35 days from 6/27/2010 to 8/1/2010, for 36 days from 11/29/2010 to 1/4/2011, for 91 days from 1/30/2011 to 5/1/2011, and for 66 days from 7/31/2011 to 10/5/2011.
26. Respondent's acts or omissions as alleged in the preceding paragraph constitute five violations by Respondent of 9 VAC § 25-580-140.1.

**Counts 6-10**

**Failure to conduct annual line tightness testing or monthly pipe monitoring**

27. Paragraphs 1 through 26 of this CA are incorporated herein by reference.
28. 9 VAC § 25-580-140.2.a. provides, in pertinent part, that underground piping that routinely contain regulated substances and conveys regulated substances under pressure shall:
- 1. Be equipped with an automatic line leak detector conducted in accordance with subdivision 1 of 9 VAC § 25-580-170.; and
  - 2. Have an annual line tightness test conducted in accordance with subdivision 2 of 9 VAC § 25-580-170. or have monthly monitoring conducted in accordance with subdivision 3 of 9 VAC § 25-580-170.
29. From July 15, 2009 to at least October 5, 2011, the piping for each of the five USTs at the Facility was underground and routinely contained regulated substances conveyed under pressure.
30. Respondent failed to conduct line tightness testing of the underground storage tank piping in accordance with subdivision 2 of 9 VAC § 25-580-170 or to have monthly monitoring conducted in accordance with subdivision 3 of 9 VAC § 25-580-170 for the underground piping associated with each of the five USTs at the Facility from at least July 15, 2009 to October 5, 2011.
31. Respondent's acts or omissions as alleged in the preceding paragraph constitute five violations by Respondent of 9 VAC § 25-580-140.2.a.2.

**Counts 11-15**

**Failure to conduct annual line leak detector testing**

32. Paragraphs 1 through 31 of this CA are incorporated herein by reference.

33. Pursuant to 9 VAC § 25-580-130.A and C, owners and operators of new and existing UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described therein.
34. 9 VAC § 25-580-140.2.a. provides, in pertinent part, that underground piping that routinely contains regulated substances and conveys regulated substances under pressure shall:
  1. Be equipped with an automatic line leak detector conducted in accordance with subdivision 1 of 9 VAC § 25-580-170.; and
  2. Have an annual line tightness test conducted in accordance with subdivision 2 of 9 VAC § 25-580-170. or have monthly monitoring conducted in accordance with subdivision 3 of 9 VAC § 25-580-170.
35. 9 VAC § 25-580-170.1. provides, in pertinent part, that an annual test of the operation of the leak detector shall be conducted in accordance with the manufacturer's requirements.
36. From at least March 1, 2007 to at least October 5, 2011, the piping for each of the five USTs at the Facility was underground and routinely contained regulated substances conveyed under pressure.
37. From at least March 1, 2007 to at least October 5, 2011, Respondent failed to perform an annual test of the automatic line leak detectors for the underground piping for any of the five USTs.
38. Respondent's acts or omissions as alleged in the preceding paragraph constitute five violations by Respondent of 9 VAC § 25-580-140.2.a.

**Counts 16-20**  
**Failure to provide overfill protection**

39. Paragraphs 1 through 38 of this CA are incorporated herein by reference.
40. 9 VAC § 25-580-50 provides, in pertinent part, that all owners and operators of new UST systems shall meet certain requirements in order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances.
41. 9 VAC § 25-580-50.3.a. provides that owners and operators of new UST systems shall use "... (2) Overfill prevention equipment that will do one or more of the following: (a) Automatically shut off flow into the tank when the tank is more than 95 percent full, or (b) Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high level alarm."
42. The requirements set forth at 9 VAC § 25-580-50.3.a. have been incorporated by reference into 9 VAC § 25-580-60.4., and are therefore applicable to existing UST systems as well as new UST systems.

43. At the time of EPA's inspection on October 5, 2011, no method of overflow protection as described in 9 VAC § 25-580-50.3.a. was in place for any of the five USTs at the Facility and the USTs did not fall within the exception in 9 VAC § 25-580-50.3.b., and such USTs were not in compliance with the closure requirements of 9 VAC § 25-580-320.
44. Respondent's acts or omissions as alleged in the preceding paragraph constitute five violations by Respondent of 9 VAC § 25-580-50.3.a.

**Counts 21-24**

**Failure to provide adequate method of spill prevention**

45. Paragraphs 1 through 44 of this CA are incorporated herein by reference.
46. 9 VAC § 25-580-50 provides, in pertinent part, that all owners and operators of new UST systems shall meet certain requirements in order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances.
47. 9 VAC § 25-580-50.3.a. provides that owners and operators of new UST systems shall use "... (1) Spill prevention equipment that will prevent release of product into the environment when the transfer hose is detached from the fill pipe – for example a spill catchment basin...."
48. At the time of the EPA's inspection on October 5, 2011, there were holes and cracks in the spill buckets for USTs Nos. 2, 3, 4, and 5, allowing for possible releases into the environment.
49. On at least October 5, 2011, Respondent failed to provide adequate spill prevention equipment as described in 9 VAC § 25-580-50.3.a. for USTs Nos. 2, 3, 4, and 5 at the Facility and the USTs did not fall within the exception in 9 VAC § 25-580-50.3.b., and such USTs were not in compliance with the closure requirements of 9 VAC § 25-580-320.
50. Respondent's acts and omissions as alleged in the preceding paragraph constitute four violations by Respondent of 9 VAC § 25-580-50.3.a.

**Counts 25-29**

**Failure to provide cathodic protection for steel piping**

51. Paragraphs 1 through 50 of this CA are incorporated herein by reference.
52. 9 VAC § 25-580-50 provides, in pertinent part, that all owners and operators of new UST systems shall meet certain requirements in order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances.
53. 9 VAC § 25-580-50.2. provides, *inter alia*, that piping that routinely contains regulated substance and is in contact with the ground must be properly designed, constructed and

protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified in 9 VAC § 25-580-50.2.a-c.

54. The requirements set forth at 9 VAC § 25-580-50.2., above, have been incorporated by reference into 9 VAC § 25-580-60.3., and are therefore applicable to existing UST systems as well as new UST systems.
55. At the time of EPA's inspection on October 5, 2011, all five USTs at the Facility had metal components in contact with the ground both in the main sumps and at the dispensers.
56. On at least October 5, 2011, Respondent failed to continuously provide corrosion protection to the metal components of each of the five USTs at the Facility that routinely contained regulated substances and were in contact with the ground as required by 9 VAC § 25-580-50.2.
57. Respondent's acts or omissions as alleged in the preceding paragraph constitute five violations by Respondent of 9 VAC § 25-580-50.2.

#### **Counts 30-34**

#### **Failure to maintain financial assurance**

58. Paragraphs 1 through 57 of this CA are incorporated herein by reference.
59. 9 VAC § 25-590-40. provides, in pertinent part, that owners and operators of petroleum UST systems are required, with exceptions not relevant hereto, to 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 USTs.
60. Subject to the limitations set forth in 9 VAC § 25-590-40.A. and B., an owner or operator may demonstrate financial responsibility using any of the mechanisms set forth in 9 VAC § 25-590-60 through 9 VAC § 25-590-120.
61. From March 1, 2007 to February 6, 2012, Respondent failed to demonstrate financial responsibility for any of the five USTs by any of the methods set forth in 9 VAC § 25-590-60 through 9 VAC § 25-590-120., and Respondent's USTs were not exempt UST systems.
62. Respondent's acts or omissions as alleged in the preceding paragraph constitutes five violations by Respondent of 9 VAC § 25-590-40.

#### **Counts 35-37**

#### **Failure to report and investigate suspected releases**

63. Paragraphs 1 through 62 of this CA are incorporated herein by reference.

64. 9 VAC § 25-580-190.3. provides that owners and operators of UST systems must report to the Virginia Department of Environmental Quality (“VADEQ”) within 24 hours and follow the procedures in 9 VAC § 25-580-210 if the monitoring results from a release detection method required under VAC § 25-580-140 indicate a release may have occurred, unless the monitoring device is found to be defective, and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result.
65. The Facility’s automatic tank gauging system showed failures for UST No. 3 on April 2, 2009 and August 9, 2009, and for UST No. 5 on January 3, 2010, and Respondent did not find the monitoring device for such UTs to be defective and/or Respondent did not immediately repair, recalibrate or replace any such defective device and thereafter conduct additional monitoring which did not confirm the initial monitoring result from a release detection method required under 9 VAC § 25-580-140.
66. Respondent did not report to VADEQ within 24 hours the suspected releases of April 2, 2009, August 9, 2009, or January 3, 2010.
67. Respondent’s acts or omissions as alleged in the preceding paragraph constitute three violations by Respondent of 9 VAC § 25-580-190.3.

**Count 38**  
**Failure to contain and clean up a spill**

68. Paragraphs 1 through 67 of this CA are incorporated herein by reference.
69. 9 VAC § 25-580-220 provides, in pertinent part, that:
  - A. Owners and operators of UST systems must contain and immediately clean up a spill or overflow and report to [VADEQ] within 24 hours and begin corrective action in accordance with Part VI of this chapter in the following cases:
    1. Spill or overflow of petroleum that results in a release to the environment that exceeds 25 gallons or that causes a sheen on nearby surface water and
    2. Spill or overflow of a hazardous substance that results in a release to the environment that equals or exceeds its reportable quantity under CERCLA (40 CFR 302) .
  - B. Owners and operators of UST systems must contain and immediately clean up a spill or overflow of petroleum that is less than 25 gallons and a spill or overflow of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within 24 hours owners and operators must immediately notify [VADEQ].
70. During the October 5, 2011 inspection, the EPA inspector observed the Tank 1 dispenser leaking kerosene into the soil.

71. The incident described in the preceding paragraph was a spill of petroleum that the owner or operator was required to contain and immediately clean up under 9 VAC § 25-580-220.
72. EPA sent Respondent a RCRA Section 9005 Information Request letter on November 29, 2011, and Respondent responded on February 12, 2012.
73. As of Respondent's February 12, 2012 response, Respondent had failed to contain and immediately clean up the spill of petroleum from the Tank 1 dispenser, Respondent had failed to notify VADEQ if the cleanup could not be accomplished in less than 24 hours, and Respondent had failed to begin corrective action if the spill was a release to the environment that exceeded 25 gallons.
74. Respondent's acts or omissions as alleged in the preceding paragraph constitute a violation by Respondent of 9 VAC § 25-580-220.

### **III. CIVIL PENALTY**

75. In settlement of Complainant's claims for civil penalties for the violations alleged in this CA, the parties agree to a civil penalty assessment of zero dollars (\$0.00).
76. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors of the seriousness of Respondent's violations and any good faith efforts by Respondent to comply with all applicable requirements as provided in RCRA Section 9006(c), 42 U.S.C. § 6991e(c), and with EPA's Penalty Guidance for Violations of UST Regulations ("UST Guidance") dated November 4, 1990.

### **IV. COMPLIANCE TASKS**

77. Pursuant to the authority of Section 9006 of RCRA, 42 U.S.C. § 6991e, Respondent must complete the following Compliance Tasks.
78. The term "days" as used herein means calendar days unless specified otherwise.
79. For those tanks Respondent continues operating:
  - A. Within 30 days, and at least every 30 days thereafter, Respondent must monitor for releases each of the USTs in accordance with 9 VAC § 25-580-140.1.
  - B. Within 60 days, Respondent must conduct tightness testing of the lines for each of the USTs in accordance with 9 VAC § 25-580-140.2.
  - C. Within 60 days, Respondent must conduct testing of the line leak detectors on the lines for each of the USTs in accordance with 9 VAC § 25-580-170.1.
  - D. Within 60 days, Respondent must provide a method of overfill protection for each of the USTs in accordance with 9 VAC § 25-580-50.3a(2).

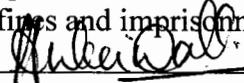
- E. Within 60 days, Respondent must provide an adequate method of spill prevention for USTs numbers 2 through 5 in accordance with 9 VAC § 25-580-50.3a(1). When Respondent repairs or replaces a damaged spill bucket, Respondent must investigate and clean up any spill, in accordance with 9 VAC § 25-580-220.
  - F. Within 60 days, Respondent must install adequate cathodic protection for all components of the USTs in accordance with 9 VAC § 25-580-60.3.
  - G. Within 30 days, Respondent must contain and clean up the spill found beneath the dispenser for UST No. 1 at the Facility in accordance with 9 VAC § 25-580-220.
  - H. Each month for 12 months, Respondent must submit copies of monthly tank release detection reports to Martin Matlin (3LC70).
  - I. Within 90 days, Respondent must submit a final report to Martin Matlin (3LC70) documenting compliance with the above tasks. This final report must include the names and addresses of contractors used to perform such work, copies of invoices for work performed, and documentation of testing performed.
80. For those tanks Respondent chooses to permanently close:
- A. Within 30 days, Respondent must notify VADEQ of its intent to permanently close the USTs above referenced and obtain necessary permits in accordance with 9 VAC § 25-580-320.
  - B. Within 30 days, Respondent must empty and clean the above referenced USTs at the Facility in accordance with 9 VAC § 25-580-320.3 (Permanent Closure and changes-in-service) by removing all liquids and accumulated sludge.
  - C. Within 90 days, Respondent must permanently close the USTs at the Facility in accordance with all applicable sections of the Commonwealth of Virginia's federally authorized underground storage tank regulations.
  - D. Within 120 days, Respondent must submit to VADEQ a written report that documents and certifies the permanent closure of the USTs at the Facility, and must submit a copy of the report to EPA.
81. The time for Respondent to comply with each of the above tasks runs from the effective date of this CA/FO. However, if Respondent complies with a task before the effective date of this CA/FO, EPA will treat that task as complied with for purposes of this CA/FO. Respondent is hereby notified that failure to comply with any of the terms of this CA/FO may subject them to imposition of a civil penalty of up to \$37,500 for each day of continued noncompliance, pursuant to Section 9006(a)(3) of RCRA, 42 U.S.C. §6991e(a)(3).
82. If activities undertaken by Respondent in connection with these Compliance Tasks indicate the release of a regulated substance from any UST systems at the Facility may have occurred, Respondent may be required to undertake responsive action pursuant to

applicable regulations in 9 VAC § 25-580-230 through 300 and 40 C.F.R. Part 280, Subpart F.

83. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this Compliance Order which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this Compliance Order must be certified by a responsible corporate officer of Respondent.

84. The certification required above must be in the following form:

I certify that the information contained in or accompanying this [type of submission] is true, accurate, and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: 

Name: HABIBA LAI WALCA

Title: OWNER / PRESIDENT

85. All documents and reports to be submitted pursuant to this CA/FO must be sent to the following persons:

A. Documents to be submitted to EPA must be sent via overnight delivery, signature required, to:

Louis F. Ramalho  
Sr. Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region III (Mail Code 3RC50)  
1650 Arch Street  
Philadelphia, PA 19103-2029

Martin Matlin  
U.S. Environmental Protection Agency  
Region III (Mail Code 3LC70)  
1650 Arch Street  
Philadelphia, PA 19103-2029

B. Documents required to be submitted to VADEQ, and one copy of all documents required to be submitted to EPA, must be sent by overnight delivery or regular mail to:

Mr. Russell P. Ellison  
Virginia Department of Environmental Quality  
Office of Spill Response and Remediation  
P.O. Box 1105  
Richmond, Virginia 23218-1105

**V. FULL AND FINAL SATISFACTION**

86. This CA/FO constitutes a settlement by EPA of its claims for civil penalties pursuant to 9006(a) of RCRA, 42 U.S.C. § 6991e(a), for the violations alleged in this Consent Agreement.

**VI. RESERVATION OF RIGHTS**

87. 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 CA/FO, following its filing with the Regional Hearing Clerk.

**VII. OTHER APPLICABLE LAWS**

88. Nothing in this CA/FO relieves Respondent of any duties otherwise imposed on it by applicable federal, state or local law and/or regulations.

**VIII. AUTHORITY TO BIND THE PARTIES**

89. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and bind Respondent hereto.

**IX. ENTIRE AGREEMENT**

90. This Consent Agreement and the attached Final Order constitute the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Agreement and the attached Final Order.

**X. EFFECTIVE DATE**

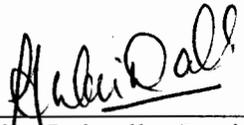
91. This CA/FO shall become effective upon filing with the Regional Hearing Clerk.

**XI. SIGNATURES**

For Respondent:

Meena Enterprises, Inc.

Date: 11/10/12

  
\_\_\_\_\_  
Habiba Laiwalla, President

For Complainant

U.S. Environmental Protection Agency, Region 3

Date: 11/27/12

  
\_\_\_\_\_  
Louis F. Ramalho  
Sr. Assistant Regional Counsel  
U.S. EPA Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 11/28/12

  
\_\_\_\_\_  
Abraham Ferdas, Director  
Land and Chemicals Division  
U.S. EPA Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III

In the Matter of:

Meena Enterprises, Inc.  
13422 Boydton Plank Road  
Dinwiddie, VA 23841,

RESPONDENT,

Village Mart  
13422 Boydton Plank Road  
Dinwiddie, VA 23841

FACILITY.

CONSENT AGREEMENT

Docket No.: RCRA-03-2013-0012

Proceeding Under Section 9006 of the  
Resource Conservation and Recovery  
Act, as amended, 42 U.S.C. Sec. 6991e

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

DEC 6 2012  
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RECEIVED

FINAL ORDER

Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency–Region III, and Meena Enterprises, Inc., Respondent, have executed a document entitled “Consent 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, 40 C.F.R. Part 22 (“Consolidated Rules of Practice”). The terms of the foregoing Consent Agreement are incorporated into this Final Order as if fully set forth at length herein.

NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the Consolidated Rules of Practice and Section 9006(c) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6991e(c) (“RCRA”), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section 9006(c) and (d) of RCRA, 42 U.S.C. § 6991e(c) and (d), IT IS HEREBY ORDERED that Respondent comply with the terms and conditions as specified in the Consent Agreement.

The effective date of the accompanying Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk of U.S Environmental Protection Agency–Region III.

12/6/12  
Date

  
Renée Sarajian

Regional Judicial Officer  
U.S. Environmental Protection Agency, Region III

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

IN THE MATTER OF:

Meena Enterprises, Inc.  
13422 Boydton Plank Rd.  
Dinwiddie, VA 23841,

RESPONDENT.

Consent Agreement and Final Order

Proceeding under Sections 409 and 16(a) of  
the Toxic Substances Control Act, 15 U.S.C.  
§§ 2689 and 2615(a)

Docket No.: RCRA-03-2013-0012

**CERTIFICATE OF SERVICE**

I certify that on the date provided below, I hand-delivered the original and one copy of the Consent Agreement and Final Order in the case captioned *In re*, Docket No. RCRA-03-2013-0012 to Lydia Guy, Regional Hearing Clerk, U.S. EPA, Region 3, 1650 Arch St, Philadelphia, PA 19003, and sent one copy of the signed original of the document via commercial delivery to Habiba Laiwalla, President, **Meena Enterprises, Inc.**, 13422 Boydton Plank Rd., Dinwiddie, Virginia 23841.

Dated: 12/6/12

  
\_\_\_\_\_  
**Louis F. Ramalho**  
Sr. Assistant Regional Counsel  
U.S. EPA Region 3

RECEIVED  
2012 DEC - 6 PM 3:09  
REGIONAL HEARING CLERK  
EPA REGION 3 PHILADELPHIA PA