



REGION 3

PHILADELPHIA, PA 19103

FILED

Jun 21, 2024

9:19 am

**U.S. EPA REGION 3
HEARING CLERK**

In the Matter of:

**Saarim, Inc.
1923 Pulaski Highway
Bear, DE 19701**

Respondent.

**Bear Necessities, BP
1923 Pulaski Highway
Bear, DE 19701,**

Facility.

U.S. EPA Docket No. RCRA-03-2024-0112

**Proceeding under SECTION 9006 of the Resource
Conservation and Recovery Act, as amendment,
42 U.S.C. § 6991e**

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 ("Complainant"), Saarim, Inc. ("Respondent") (collectively the "Parties"), pursuant to Section 9006 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6991e(d), 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. Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d) authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the "Consent Agreement and Final Order") resolve Complainant's

civil penalty claims against Respondent under RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and the State of Delaware's federally authorized underground storage tank program for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency ("EPA") has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. The EPA has given the State of Delaware prior notice of the issuance of this Consent Agreement and Final Order in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of the EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in **this Consent Agreement and Final Order** and waives its right to appeal the accompanying Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. Delaware is approved to administer and enforce an underground storage tank program in lieu of the Federal program under Subtitle I of the RCRA, as amended, 42 U.S.C. §§ 6991-6991m. The State's program, as administered by Delaware's Department of Natural Resources and Environmental Control, was approved by the EPA pursuant to 42 U.S.C. 6991c and 40 CFR part 281 of this chapter. EPA approved the Delaware underground storage tank program on September 27, 1996, and approval was effective on October 28, 1996. A subsequent program revision application was approved by the EPA and became effective on September 12, 2022.
14. Delaware has primary responsibility for administering and enforcing its federally-approved underground storage tank program. However, the EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, regardless of whether the State has taken its own actions, as well as under any other applicable statutory and regulatory provisions.
15. At all times relevant to violations alleged in this Consent Agreement and Final Order, Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m, and regulations promulgated pursuant thereto at 40 C.F.R. Part 280, and Delaware's Underground Storage Tank ("UST") program, set forth at 7 Del. Admin. C. § 1300-Parts A - D (1995), regulate USTs used to contain regulated substances including, but not limited to, petroleum products (e.g., gasoline and crude oil).
16. At all times relevant to this Consent Agreement and Final Order, Respondent, Saarim, Inc. has been a "person" and "operator" of the "USTs" and "UST systems" at a "facility" as those terms are defined in 7 Del. Admin. C. § 1300-Part A (1995).
17. At all times relevant to this Consent Agreement and Final Order, Respondent has owned and/or operated a facility known as Bear Necessities, BP, located at 1923 Pulaski Highway, Bear, Delaware 19701 (the "Facility").
18. At all times relevant to this Consent Agreement and Final Order, five (5) underground storage tanks were located at Respondent's Facility as follows: one (1) UST stored regular gasoline with a capacity of 6,500 gallons, one (1) UST stored premium gasoline with a capacity of 3,500 gallons, one (1) UST stored off-road diesel with a capacity of 4,000 gallons, one (1) UST stored diesel with a capacity of 4,000 gallons and one (1) UST stored E85 with a capacity of 5,000 gallons.

19. On January 31, 2022, the EPA conducted a Compliance Evaluation Inspection (the "Inspection") of the five (5) USTs located at the Facility. All USTs are monitored for tank release detection by the Automatic Tank Gauge. The pressurized lines for each UST were equipped with mechanical line leak detectors and sump sensors installed in the submersible turbine pump.
20. At the time of the Inspection, and at all times relevant to the applicable violations alleged herein, USTs and UST systems used to contain "regulated substance[s]" as this term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 7 Del. Admin. C. § 1300-Part A (1995), were present at the Facility.

Count 1

**Failure to test line leak detectors annually in accordance with
7 Del. Admin. C. §§ 1300-Part B, 1.10.1.3 (1995), servicing one (1) UST containing E85**

21. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
22. Pursuant to 7 Del. Admin. C. §§ 1300-Part B, 1.8-1.9 (1995), "owners and operators of new UST systems [installed after 1985] must provide a method, or combination of methods of release detection "
23. 7 Del. Admin. C. §§ 1300-Part B, § 1.10.1 provides, in pertinent part, that underground piping for petroleum USTs that routinely contains regulated substances must be monitored for releases. Each method of release detection for piping used to meet the requirements under this Section must be conducted in accordance with the following:

§ 1.10.1 Pressurized Piping

(1) Underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector.

* * *

(3) An annual test of the operation of the leak detector must be conducted in accordance with the manufacturer's specifications.

24. According to a DNREC inspection conducted on February 5, 2019, line leak detector annual testing was in compliance for the Facility at that time.

25. Based on information obtained during and after the EPA Inspection, the Respondent did not conduct a test on the line leak detector for the UST containing E-85 between February 6, 2019 and November 11, 2020.
26. From February 6, 2020, through November 11, 2020, Respondent violated 7 Del. Admin. C. §§ 1300-Part B, 1.10.1.3 (1995) by failing to conduct a test on the line leak detector for the UST containing E-85 at least annually.
27. In failing to comply with 7 Del. Admin. C. §§ 1300-Part B, 1.10.1.3 (1995), Respondent is subject to the assessment of penalties under Section 9006(d)(2) of RCRA, 42 U.S.C. § 6991e(d)(2).

Count 2

Failure to provide a method for tank release detection in accordance with 7 Del. Admin. C. §§ 1300-Part B, 1.8 (1995) servicing one (1) UST containing ESS

28. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
29. Pursuant to 7 Del. Admin. C. §§ 1300-Part B, 1.8 (1995), "owners and operators of new UST systems [installed after 1985] must provide a method, or combination of methods of release detection "
30. Based on information obtained during and after the Inspection, for the period from March 8, 2019 through September 26, 2021, the UST containing E-85 failed to have tank release detection.
31. From March 8, 2019 through September 26, 2021, Respondent violated 7 Del. Admin. C. §§ 1300-Part B, 1.8 (1995) by failing to provide a method, or combination of methods of release detection for the UST containing E-85.
32. In failing to comply with 7 Del. Admin. C. §§ 1300-Part B, 1.8 (1995), Respondent is subject to the assessment of penalties under Section 9006(d)(2) of RCRA, 42 U.S.C. § 6991e(d)(2).

CIVIL PENALTY

33. In settlement of the EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **EIGHT THOUSAND NINE HUNDRED AND FORTY-TWO DOLLARS (\$8,942)**, which Respondent shall be liable to pay in accordance with the terms set forth below.

34. The civil penalty is based upon the EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), which requires the EPA to take into account the following: the seriousness of the violation and any good faith efforts to comply with the applicable requirement. These factors were applied to the particular facts and circumstances of this case with specific reference to the EPA's 2023 *Revised Consolidated Enforcement Penalty Policy for Underground Storage Tank (UST) Regulations and Revised Field Citation Program and ESA Pilot* which reflects the statutory penalty criteria and factors set forth at Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing the EPA's civil penalty policies to account for inflation.
35. Respondent agrees to pay a civil penalty in the amount of **\$8,942** ("Assessed Penalty") within thirty (30) days of the Effective Date of this Consent Agreement and Final Order.
36. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
37. When making a payment, Respondent shall:
- a. Identify every payment with Respondent's name and the docket number of this Consent Agreement, **RCRA-03-2024-0112**,
 - b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve Proof of Payment simultaneously **by email** to the following person(s):

Lauren Zarrillo
Assistant Regional Counsel
Zarrillo.lauren@epa.gov,

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov,

and

U.S. EPA Region 3 Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

"Proof of Payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

38. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Consent Agreement, the EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.

a. Interest. Interest begins to accrue from the Effective Date of this Consent Agreement. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States, the rate of interest is set at the IRS "**standard**" underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.

b. Handling Charges. Respondent will be assessed monthly a charge to cover the EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Consent Agreement, the EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Effective Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.

c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Effective Date.

39. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.

a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.

b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but

is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.

c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, per 40 C.F.R. § 13.17.

d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

40. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
41. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.
42. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed the EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
43. The parties consent to service of the Final Order by e-mail at the following valid email addresses: zarrillo.lauren@epa.gov (for Complainant), and mubarak_siddiqui@verizon.net, (for Respondent).

GENERAL SETTLEMENT CONDITIONS

44. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
45. Respondent certifies that any information or representation it has supplied or made to the EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. The EPA shall have the

right to institute further actions to recover appropriate relief if the EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, **including information about respondent's ability to pay a penalty**, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that the

46. The EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

47. Respondent certifies to the EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

48. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the **RCRA**, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

49. This Consent Agreement and Final Order resolves only the EPA's claims for civil penalties for the specific violation[s] alleged against Respondent in this Consent Agreement and Final Order. The EPA reserves the right to commence action against any person, including Respondent, in response to any condition which the EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. 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, 40 C.F.R. § 22.18(c). The EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

50. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

51. The effective date of this Consent Agreement and Final Order ("Effective Date") is the date on which the Final Order, signed by the Regional Administrator of the EPA, Region 3, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

52. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: Saarim, Inc.

Date: 6/4/24

By: 

Mubarak Siddiqui

SIGNATORY TITLE: PRESIDENT

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: _____
[Digital Signature and Date]
Karen Melvin, Director
Enforcement and Compliance Assurance Division
U.S. EPA- Region 3
Complainant

Attorney for Complainant:

By: _____
[Digital Signature and Date]
Lauren Zarrillo
Assistant Regional Counsel
U.S. EPA - Region 3



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PHILADELPHIA, PA 19103

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Conservation and Recovery Act, as amendment,
42 U.S.C. § 6991e**

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3, and Respondent, Saarim, Inc. 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 ("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 Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, the EPA's 2023 *Revised Consolidated Enforcement Penalty Policy for Underground Storage Tank (UST) Regulations and Revised Field Citation Program and ESA Pilot* which reflects the statutory penalty criteria and factors set forth at Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing the EPA's civil penalty policies to account for inflation, forth in Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c)

NOW, THEREFORE, PURSUANT TO Section 9006 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 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 **EIGHT THOUSAND NINE HUNDRED FORTY-TWO DOLLARS ("8,942")**, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), 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 RCRA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

By:

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region 3



REGION 3

PHILADELPHIA, PA 19103

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**Bear Necessities, BP
1923 Pulaski Highway
Bear, DE 19701,**

Facility.

CERTIFICATE OF SERVICE

I certify that the foregoing ***Consent Agreement and Final Order*** was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the ***Consent Agreement and Final Order***. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Mubarak Siddiqui
Saarim, Inc.
1923 Pulaski Highway
Bear, DE 19701
mubarak_siddiqui@verizon.net

In the Matter of: Saarim, Inc.

EPA Docket No. RCRA-03-2024-0112

Lauren Zarrillo

Assistant Regional Counsel

U.S. EPA, Region 3

Zarrillo.lauren@epa.gov

Caitlin Stormont

Inspector

U.S. EPA, Region 3

stormont.caitlin@epa.gov

[Digital Signature and Date]

Regional Hearing Clerk

U.S. Environmental Protection Agency, Region 3