

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103**

IN THE MATTER OF:)	DOCKET NO.: RCRA-03-2023-0054
)	
Divya Enterprise LLC)	
1312 Foxview Dr.)	EXPEDITED SETTLEMENT
Bethlehem, PA 18107)	AGREEMENT AND FINAL ORDER
)	
Respondent)	
)	
Sunrise Mart)	
1510 Tilghman St.)	
Allentown, PA 18102)	
)	
Facility)	

EXPEDITED SETTLEMENT AGREEMENT

1. Divya Enterprise LLC (“Respondent”) and the Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) enter into this Expedited Settlement Agreement (“Agreement”) 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)). The Administrator has delegated the authority to enter into this Agreement to the Regional Administrator who, in turn, has delegated it to the Complainant.
2. The U.S. Environmental Protection Agency, Region III (“EPA”) has jurisdiction over this matter pursuant to 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.
3. Complainant alleges that, at all times relevant to the allegations described in this Agreement, Respondent was and continues to be a “person,” and the “operator” and/or “owner” of “underground storage tanks” (“USTs”) and “UST systems,” located at Sunrise Mart, 1510 Tilghman St., Allentown, PA, 18102 (“Facility”).
4. Complainant alleges and finds that Respondent 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’s UST management program regulations set forth in the Pennsylvania Administrative Code as Title 25: Administration of the Storage Tank and Spill Prevention Program, Pa Code § 245 *et seq.* (“PA Code”).

5. On August 16, 2022, a representative of EPA conducted a Compliance Evaluation Inspection, and observed the following USTs located at the Facility:
 - a. A 6,000-gallon tank that was installed in or about June 1988 and that, at all times relevant hereto, routinely contained premium-grade gasoline, a “regulated substance” as that term is defined in PA Code 25 § 245.1 (hereinafter “UST No. 1”).
 - b. A 10,000-gallon tank that was installed in or about June 1988 and that, at all times relevant hereto, routinely contained regular-grade gasoline, a “regulated substance” as that term is defined in PA Code 25 § 245.1 (hereinafter “UST No. 2”).
 - c. An 8,000-gallon tank that was installed in or about June 1988 and that, at all times relevant hereto, routinely contained plus-grade gasoline, a “regulated substance” as that term is defined in PA Code 25 § 245.1 (hereinafter “UST No. 3”).
6. Complainant has identified the following violation:
 - From at least February 1, 2021 until November 29, 2021, Respondent failed to monitor UST No. 3 every 30 days for release detection, in violation of PA Code § 245.442(b)(1).
7. Complainant and Respondent agree that settlement of this matter for a penalty of **\$1,222 (ONE THOUSAND TWO HUNDRED TWENTY-TWO DOLLARS)** is in the public interest. In calculating this amount, Complainant considered 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. Respondent agrees that, within 30 days of the effective date of this Agreement, Respondent shall make a payment of **\$1,222 (ONE THOUSAND TWO HUNDRED TWENTY-TWO DOLLARS)** by one of four methods: 1) electronic funds transfer (“EFT”), 2) Automated Clearinghouse, 3) Pay.gov, or 4) a cashier’s check or certified check made out to “**United States Treasury**” with the case name, address and docket number of this Agreement (RCRA-03-2023-0054), for the amount specified above:
 - a. Payment of the penalty amount by EFT:

Federal Reserve Bank of New York
ABA 021030004
Account 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Beneficiary: Environmental Protection Agency
 - b. Payment of the penalty amount by Automated Clearinghouse (“ACH”):

U.S. Treasury REX/Cashlink ACH Receiver

ABA: 051036706

Account Number: 310006, Environmental Protection Agency

CTX Format Transaction Code 22- Checking

Physical Location of the U.S. Treasury Facility

5700 Rivertech Court

Riverdale, MD 20737

Remittance Express (REX): 1-866-234-5681

c. Payments made through Pay.gov:

Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments. Follow these steps to make a payment:

- (1) You **DO NOT** need a user name and password or account.
- (2) Enter **SFO 1.1** in the form search box on the top left side of the screen.
- (3) Open the form and follow the on-screen instructions.
- (4) Select your method of payment from the “Type of Payment” drop down menu.
- (5) Based on your selection, the corresponding line will open and no longer be shaded grey.
- (6) Enter the docket number of this Agreement into the field.

d. Payment of the penalty amount by regular U.S. Postal Service shall be sent via certified mail to:

U.S. Environmental Protection Agency
P.O. Box - Cincinnati Finance Center Box 979077
St. Louis, MO 63197-9000

e. Payment of the penalty amount by overnight mail (FedEx or other non-U.S. Postal Service express mail) shall be sent to:

U.S. Environmental Protection Agency
Government Lock Box - Cincinnati Finance Center Box 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

f. A list of the payment methods is also provided at this website
<https://www.epa.gov/financial/makepayment>.

9. Within 24 hours of payment, the Respondent shall also send proof of payment (a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or

automated clearinghouse transfer), by electronic mail to:

Martin Matlin (3ED22)
matlin.martin@epa.gov

and,

Regional Hearing Clerk (3RC00)
R3_Hearing_Clerk@epa.gov


10. In signing this Agreement, the Respondent: admits the jurisdictional allegations in this Agreement; neither admits nor denies the specific factual allegations in this Agreement, except as provided in the jurisdictional admission above; agrees 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 waives its right to a hearing on any issue of law or fact in this Agreement and any right to appeal the accompanying Final Order; consents to the issuance of the Agreement and agrees to comply with its terms; agrees to bear its own costs and attorney's fees; and agrees not to deduct for federal tax purposes the civil penalty assessed in this Agreement and Final Order.
11. By its signature below, the Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that (1) he or she has corrected the alleged violations, and (2) any documentation or information that he or she provided to EPA was true and accurate.
12. This Agreement and the attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations alleged in this Agreement.
13. 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 the RCRA, the RCRA regulations promulgated, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Agreement, following its filing with the Regional Hearing Clerk.
14. Late payment of the agreed upon penalty may subject Respondent to interest, administrative costs and late payment penalties in accordance with 40 C.F.R. § 13.11.
15. This Agreement is binding on the parties signing below and is effective upon filing, in accordance with 40 C.F.R. § 22.31(b).
16. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind Divya Enterprise LLC.
17. As permitted under 40 CFR § 22.6, the Regional Hearing Clerk will serve copies of this Agreement and Final Order by e-mail to the parties at the following valid e-mail

addresses: matlin.martin@epa.gov (for Complainant), and jaijanv298@gmail.com (for Respondent).

18. By signing this Agreement, Respondent acknowledges that this Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.

For Respondent: Ravi Panchal and/or Jaiminkumar Panchal

Date: 04/07/23

By: Jaiminkumar Panchal
[SIGNATORY NAME]
[SIGNATORY TITLE] 

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

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

KAREN
MELVIN

Digitally signed by
KAREN MELVIN
Date: 2023.04.27
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[Digital Signature and Date]

Karen Melvin, Director
Enforcement and Compliance Assurance Division

In Re: Sunrise Mart

EPA Docket No. RCRA-03-2023-0054

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103**

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Divya Enterprise LLC)	
1312 Foxview Dr.)	EXPEDITED SETTLEMENT
Bethlehem, PA 18107)	AGREEMENT AND FINAL ORDER
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Respondent)	
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Sunrise Mart)	
1510 Tilghman St.)	
Allentown, PA 18102)	
)	
Facility)	

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency - Region III, and Respondent, Divya Enterprise LLC, 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, the penalty agreed to therein took into account 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.

NOW, THEREFORE, PURSUANT TO Section 9006 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 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 **\$1,222 (ONE THOUSAND TWO HUNDRED TWENTY TWO DOLLARS)**, in accordance with the payment provisions set forth in the Expedited Settlement Agreement, and comply with the terms and conditions of the Expedited Settlement 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 Expedited Settlement 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, 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.

Lisa, Joseph Digitally signed by Lisa,
Joseph
Date: 2023.04.28
09:48:58 -04'00'

[Digital Signature and Date]

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

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103**

IN THE MATTER OF:

**Divya Enterprise LLC
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Respondent

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Proceeding under 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

CERTIFICATE OF SERVICE

I certify that the foregoing *Consent Agreement and Final Order* was filed with the EPA Region III 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:

**Ravi and Jaiminkumar Panchal, Owners
Divya Enterprise LLC
jaijanv298@gmail.com
1312 Foxview Dr.
Bethlehem, PA 18107**

**Martin Matlin
Life Scientist
U.S. EPA, Region III
matlin.martin@epa.gov**

BEVIN ESPOSITO Digitally signed by BEVIN ESPOSITO
Date: 2023.04.28 10:03:39 -04'00'

[Digital Signature and Date]
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III

