9-23-08
Complainant
L. Suy

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

In the matter of:	:	
	:	
Florida Avenue Mid-Atlantic Petroleum	:	
Properties, LLC.	:	
and	:	
Mid-Atlantic Petroleum Properties, LLC.	:	
12311 Middlebrook Road	:	**Docket No.: RCRA-03-2008-0430**
Germantown, Maryland 20874	:	
Respondents,	:	
	:	
	:	**Proceeding under Section 9006**
	:	**of the Resource Conservation and**
Florida Market Chevron	:	**Recovery Act, as amended,**
00 Florida Avenue, N.E.	:	**42 U.S.C. § 6991e**
Washington D.C.	:	
Facility.		

ADMINISTRATIVE COMPLAINT AND NOTICE OF OPPORTUNITY FOR A HEARING

I. INTRODUCTION

This Administrative Complaint and Notice of Opportunity for Hearing ("Complaint") is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA" or the "Agency") by Section 9006 of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984 (collectively "RCRA"), 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, 40 C.F.R. Part 22 ("Consolidated Rules of Practice"), a copy of which is enclosed with this Complaint.

Complainant, the Director of the Land and Chemicals Division of U.S. EPA Region III, hereby notifies Florida Avenue Mid Atlantic Petroleum Properties, LLC and Mid Atlantic Petroleum Properties, LLC (collectively, "Respondents") that EPA has reason to believe that Respondents have violated Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m, and the District of Columbia's federally authorized underground storage tank program with respect to certain underground storage tanks formerly located at 400 Florida Avenue, NE, Washington, D.C. (the "Facility"). Section 9006 of RCRA, 42 U.S.C. § 6991e, authorizes EPA to take enforcement action, including issuing a compliance order or assessing a civil penalty, whenever it is determined that a person is in violation of any requirement of RCRA Subtitle I, EPA's regulations

thereunder, or any regulation of a state underground storage tank program which has been authorized by EPA.

Effective May, 4, 1998, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991*c*, and 40 C.F.R. Part 281, Subpart A, the District of Columbia 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 District of Columbia UST management program, through this final authorization, are enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991*e*. The District of Columbia's authorized UST program regulations are set forth in the District of Columbia Municipal Regulations, Title 20, Chapters 55 *et seq.*, and will be cited hereinafter as 20 DCMR §§ 5500 *et seq.*

Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d), authorizes EPA to assess a civil penalty against any owner or operator of an underground storage tank who fails to comply with, *inter alia*, any requirement or standard promulgated under Section 9003 of RCRA, 42 U.S.C. § 6991b (40 C.F.R. Part 280) or any requirement or standard of a State underground storage tank program that has been approved by EPA pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c.

EPA has given the District of Columbia notice of the issuance of this Complaint in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991*e*(a)(2).

In support of this Complaint, the Complainant makes the following allegations, findings of fact and conclusions of law:

II. COMPLAINT
Findings of Facts and Conclusions of Law

1. EPA Region III 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).

2. At all times relevant to this Complaint, Florida Avenue Mid-Atlantic Petroleum Properties, LLC ("FLA-MAPP") has been a District of Columbia corporation doing business in Washington, D.C.

3. FLA-MAPP is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 20 DCMR § 6899.1.

4. On November 30, 1998, FLA-MAPP entered into a 10-year lease agreement with the owner of Facility to lease the entire Facility, including all improvements, buildings, canopies, and petroleum and other equipment.

5. The terms of the lease required the owner to provide FLA-MAPP with all business licenses, architectural drawings, and construction permits for the Facility.

6. The terms of the lease also stated that FLA-MAPP would make good-faith and reasonable efforts to obtain use and other necessary permits to re-open the Facility as a gas station.

7. FLA-MAPP was required under the terms of lease to pay all real estate, personal property, and other taxes with respect to the Facility.

8. FLA-MAPP, under the lease agreement, agreed to use and occupy the Facility as a retail service station, convenience store, car wash and related uses that are customary in the retail service station business and for no other purpose.

9. Under the terms of the lease, the owner agreed to provide FLA-MAPP with complete and exclusive possession of the Facility, including petroleum and other equipment, without disturbance or interruption.

10. FLA-MAPP also agreed that it would comply with all laws and regulations of the District of Columbia, regardless of the owner's obligation to comply, with respect to operation of the Facility as a retail service station.

11. FLA-MAPP paid to upgrade the UST system at the Facility.

12. On or about February 3, 1999, FLA-MAPP paid for tank tests to be performed on the UST systems at the Facility.

13. FLA-MAPP agreed under the terms of the lease that any assignment would not release FLA-MAPP from its liability under the lease.

14. FLA-MAPP further agreed to indemnify the owner for liability of the acts of any assignees or subtenants. On March 16, 1999, FLA-MAPP entered into a sublease with a subtenant.

15. At all times relevant to this Complaint, FLA-MAPP has been an "operator," as that term is defined in Section 9001(3) of RCRA, 42 U.S.C. § 6991(3), and 20 DCMR § 6899.1, 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 20 DCMR § 6899.1, located at the Facility.

16. At all times relevant to this Complaint Mid-Atlantic Petroleum Properties, LLC ("MAPP") has been a Maryland corporation doing business in the District of Columbia .

17. MAPP is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 20 DCMR § 6899.1.

18. MAPP is the parent company of FLA-MAPP.

19. On November 30, 1998, MAPP executed a guaranty to the lease agreement between FLA-MAPP and the owner of the Facility.

20. Under the terms of the guaranty, MAPP agreed that along with FLA-MAPP it was jointly and severally, absolutely, unconditionally and irrevocably guaranteeing all of the obligations of FLA-MAPP in regards to its lease of the Facility.

21. On November 8, 2004, MAPP paid to the District of Columbia the annual tank registration fees associated with the UST systems at the Facility for the years 2004 and 2005.

22. On January 31, 2007, MAPP purchased limited liability insurance on the UST systems located at the Facility and named itself as the beneficiary.

23. In June 2007, MAPP issued a check to the District of Columbia in settlement of environmental penalties which had been assessed against the UST Systems located at the Facility.

24. On June 11, 2007, MAPP hired a contractor to close the tanks associated with the UST systems located at the Facility.

25. At all times relevant to this Complaint, MAPP has been an "operator," as that term is defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and (4), and 20 DCMR § 6899.1, 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 20 DCMR § 6899.1, located at the Facility.

26. On May 17, 2007, an EPA representative attempted to conduct a Compliance Evaluation Inspection ("CEI") of the Facility pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d; however the Facility was closed. Since EPA was unable to conduct an on-site inspection of the Facility, a letter dated June 11, 2007 and entitled *Request for Information pursuant to Section 9005 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6991d, regarding Underground Storage Tanks Systems ("UST Systems")* was sent to both the owner and station operator requesting information relating to the tanks, their associated equipment, contents, and compliance with the applicable requirements of the District of Columbia Municipal Regulations ("DCMR") Title 20. Responses to these requests were prepared by MAPP and submitted to EPA on or about June 25, 2007.

27. At all times relevant to the applicable violations alleged herein, three (3) USTs, as described in the following subparagraphs, were located at the Facility:

A. a six thousand (6,000) gallon fiberglass reinforced plastic tank that was installed in or about 1981 and that, at all times relevant hereto, routinely contained and was used to store gasoline, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1(hereinafter "UST No. 1");

B. a ten thousand (10,000) gallon fiberglass reinforced plastic tank that was installed in or about 1981 and that, at all times relevant hereto, routinely contained and was used to store gasoline, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter "UST No. 2"); and

C. a six thousand (6,000) gallon fiberglass reinforced plastic tank that was installed in or about 1981 and that, at all times relevant hereto, routinely contained and was used to store diesel fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter "UST No.3).

28. At all times relevant to the applicable violations alleged herein, UST No.1 has been a "petroleum UST system" and "existing UST system" as these terms are defined in 20 DCMR § 6899.1, respectively.

29. At all times relevant to the applicable violations alleged herein, UST No. 2 has been a "petroleum UST system" and "existing UST system" as these terms are defined in 20 DCMR § 6899.1, respectively.

30. At all times relevant to the applicable violations alleged herein, UST No. 3 has been a "petroleum UST system" and "existing UST system" as these terms are defined in 20 DCMR § 6899.1, respectively.

31. USTs Nos. 1, 2, and 3 are and were, at all times relevant to the applicable violations alleged in this Complaint, used to store "regulated substance(s)" at the Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1, and have not been "empty" as that term is defined at 20 DCMR § 6100.7.

COUNT 1

(Failure to perform automatic line leak detector testing annually on piping for USTs Nos. 1, 2 and 3)

32. The allegations of Paragraphs 1 through 31 of this Complaint are incorporated herein by reference.

33. 20 DCMR § 6000.1 provides that each owner and operator of a new or existing UST system shall provide a method, or combination of methods, of release detection that meets the requirements described therein.

34. 20 DCMR § 6000.2 provides that the owner and operator of each UST system, regardless of the date of installation, shall immediately comply with the release detection requirements for all pressurized piping as set forth in 20 DCMR §§ 6004.2 and 6004.3.

35. 20 DCMR § 6004.1 provides that the owner or operator of a petroleum UST system shall regularly monitor all underground piping that contains or conveys regulated substances for releases in accordance with 20 DCMR § 6004.

36. 20 DCMR § 6004.2 provides that underground piping that conveys regulated substances under pressure shall be equipped with an automatic line leak detector in accordance with § 6013.2 of this chapter.

37. 20 DCMR § 6013.2 provides, in pertinent part, that the owner or operator shall conduct an annual test of the operation of the leak detector, in accordance with the manufacturer's requirements.

38. From at least October 1, 2003 until the tanks were removed on June 11, 2007, the piping for USTs Nos. 1, 2 and 3 was underground and routinely conveyed regulated substances under pressure.

39. Neither Respondent has ever conducted a testing of the automatic line leak detectors for the piping associated with USTs Nos. 1, 2 and 3.

40. Respondents failed to perform an annual test of the automatic line leak detectors for the underground piping associated with USTs Nos. 1, 2 and 3 from at least October 1, 2003 until the tanks were removed on or about June 11, 2007.

41. Respondents' acts and/or omissions as alleged in Paragraph 40, above, constitute violations by Respondents of 20 DCMR § 6004.2 and 20 DCMR § 6013.2.

COUNT 2

(Failure to perform line tightness testing or monthly monitoring on piping for USTs Nos. 1, 2 and 3)

42. The allegations of Paragraphs 1 through 41 of this Complaint are incorporated herein by reference.

43. 20 DCMR § 6000.1 provides that each owner and operator of a new or existing UST system shall provide a method, or combination of methods, of release detection that meets the requirements described therein.

44. 20 DCMR § 6000.2 provides that the owner and operator of each UST system, regardless of the date of installation, shall immediately comply with the release detection requirements for all pressurized piping as set forth in §§ 6004.2 and 6004.3.

45. 20 DCMR § 6004.1 provides that the owner and operator of a petroleum UST system shall regularly monitor all underground piping that contains or conveys regulated substances for releases in accordance with 20 DCMR § 6004.

46. 20 DCMR § 6004.3 provides that underground piping that conveys regulated substances under pressure shall have an annual line tightness test conducted in accordance with § 6013.3 or have monthly monitoring conducted in accordance with § 6013.4.

47. From at least October 1, 2003 until the tanks were removed on June 11, 2007, the piping for USTs Nos. 1, 2 and 3 was underground and routinely conveyed regulated substances under pressure.

48. Respondents never conducted testing of the piping associated with USTs Nos. 1, 2 and 3.

49. Respondents failed to perform an annual line tightness testing in accordance with 20 DCMR § 6013.3 or have monthly monitoring conducted in accordance with 20 DCMR § 6013.4 from October 1, 2003 until the tanks were removed on June 11, 2007 for the underground piping associated with USTs Nos. 1, 2 and 3.

50. Respondents' acts and/or omissions as alleged in Paragraph 49, above, constitute violations by Respondents of 20 DCMR § 6004.3.

III. PROPOSED CIVIL PENALTY

Section 9006(d)(2) of RCRA, 42 U.S.C. § 6991e(d)(2), provides, in relevant part, that any owner or operator of an underground storage tank who fails to comply with any requirement or standard promulgated by EPA under Section 9003 of RCRA, 42 U.S.C. § 6991c, or that is part of

an authorized state underground storage tank program shall be liable for a civil penalty not to exceed $10,000 for each tank for each day of violation. In accordance with the Adjustment of Civil Monetary Penalties for Inflation, promulgated pursuant to the Debt Collection Improvement Act of 1996 and codified at 40 C.F.R. Part 19, and the Modifications to EPA Penalty Policies, all violations of RCRA Section 9006(d)(2), 42 U.S.C. § 6991e(d)(2), occurring on or before March 15, 2004 are subject to a 10% increase for inflation, and all violations occurring after March 15, 2004 are subject to an additional 17.23% increase for inflation, not to exceed $11,000 per violation per day. For purposes of determining the amount of any penalty to be assessed, Section 9006(c)of RCRA, 42 U.S.C. § 6991e(c), requires EPA to take into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements.

Pursuant to 40 C.F.R. § 22.14(a)(4)(ii), Complainant is not proposing a specific penalty at this time, but will do so at a later date after an exchange of information has occurred. *See* 40 C.F.R. § 22.19(a)(4). To develop a proposed penalty for the violations alleged in this Complaint, EPA will take into account the particular facts and circumstances of this case with specific reference to EPA's November 1990 U.S. EPA Penalty Guidance for Violations of UST Regulations ("UST Penalty Guidance"), the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, and Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 1996, Effective October 1, 2004) (September 21, 2004), copies of which are enclosed with this Complaint. These policies provide a rational, consistent and equitable methodology for applying the statutory penalty factors enumerated above to particular cases. As a basis for calculating a specific penalty pursuant to 40 C.F.R. § 22.19(a)(4), Complainant will also consider, among other factors, Respondents' ability to pay a civil penalty. The burden of raising and demonstrating an inability to pay rests with the Respondents. In addition, to the extent that facts and circumstances unknown to Complainant at the time of issuance of this Complaint become known after the Complaint is issued, such facts and circumstances may also be considered as a basis for adjusting a civil penalty. Pursuant to 40 C.F.R. § 22.14(a)(4)(ii), an explanation of the number and severity of the violations alleged in this Complaint is set forth below.

Pursuant to Section 9006(d)(2) of RCRA, 42 U.S.C. § 6991*e*(d)(2), EPA proposes the assessment of a civil penalty of up to $11,000 per day against Respondent for each of the violations alleged in this Complaint. This Complaint does not constitute a "demand" as that term is defined in the Equal Access to Justice Act, 28 U.S.C. § 2412.

Penalty Explanation

Failure to perform automatic line leak detection annually.

The "potential for harm" for this violation is major. It is critically important that facility owners and operators utilize effective methods of detecting releases from USTs and their associated piping. The prevention and detection of leaks are the cornerstones of the UST

regulatory program. Respondents' failure to perform an annual line leak detector test for the underground piping associated with USTs Nos. 1, 2 and 3 at the Facility presented a substantial risk to human health or the environment from a leak going undetected.

The "extent of deviation" for this violation is also major because it presents a substantial deviation from the requirements of the RCRA regulatory program. There does not at this time appear to be any reason to deviate from that assessment. Additional upward and/or downward penalty adjustments based on Respondent's level of cooperation or non-cooperation, Respondent's relative culpability and Respondent's history of similar violations may be considered after further information is exchanged by the parties

In addition, Complainant expects to adjust the base penalty by a multiplier to account for the relative sensitivity of the environment affected by the violation. Complainant has not yet assessed the specific sensitivity of the environment at the Facility's location, but past experience with UST sites in the District of Columbia would lead to a strong possibility of an upward adjustment of the penalty in view of the shallow water table, permeable soils and high population density normally found within the District.

Furthermore, a penalty component will be added to reflect the economic benefit gained by Respondent by failing to comply with the line release detection requirements.

Failure to perform annual line tightness testing or monthly monitoring.

The "potential for harm" for this violation is major. It is critically important that facility owners and operators utilize effective methods of detecting releases from USTs and their associated piping. The prevention and detection of leaks are the cornerstones of the UST regulatory program. Respondents' failure to perform an annual line tightness test or monthly monitoring of underground piping associated with USTs Nos. 1, 2 and 3 at the Facility presented a substantial risk to human health or the environment from a leak going undetected.

The "extent of deviation" for this violation is also major because it presents a substantial deviation from the requirements of the RCRA regulatory program.

Additional upward and/or downward penalty adjustments based on Respondent's level of cooperation or non-cooperation, Respondent's relative culpability and Respondent's history of similar violations may be considered after further information is exchanged by the parties. In addition, Complainant expects to adjust the base penalty by a multiplier to account for the relative sensitivity of the environment affected by the violation. As discussed above, the conditions commonly found in the District of Columbia generally warrant an upward penalty adjustment based on this factor.

IV. NOTICE OF RIGHT TO REQUEST A HEARING

Respondents may request a hearing before an EPA Administrative Law Judge and at such hearing may contest any material fact upon which the Complaint is based, contest the appropriateness of any compliance order or proposed penalty, and/or assert that Respondents are entitled to judgment as a matter of law. To request a hearing, Respondents must file a written answer ("Answer") within thirty (30) days after service of this Complaint. The Answer should clearly and directly admit, deny or explain each of the factual allegations contained in this Complaint of which Respondents have any knowledge. Where Respondents have no knowledge of a particular factual allegation and so states, such a statement is deemed to be a denial of the allegation. The Answer should contain: (1) the circumstances or arguments which are alleged to constitute the grounds of any defense; (2) the facts which Respondents dispute; (3) the basis for opposing any proposed relief; and (4) a statement of whether a hearing is requested. All material facts not denied in the Answer will be considered to be admitted.

Failure of the Respondents to admit, deny or explain any material allegation in the Complaint shall constitute an admission by Respondents of such allegation. Failure to Answer may result in the filing of a Motion for Default Order and the possible issuance of a Default Order imposing the penalties proposed herein without further proceedings.

Any hearing requested and granted will be conducted in accordance with the Consolidated Rules, a copy of which has been enclosed with this Complaint (Enclosure "A"). Respondents must send any Answer and request for a hearing to the attention of:

Regional Hearing Clerk (3RC00)
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

In addition, please send a copy of any Answer and/or request for a hearing to the attention of:

Donzetta W. Thomas
Senior Assistant Regional Counsel
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029;

and

Louis F. Ramalho
Senior Assistant Regional Counsel
U.S. EPA Region III

1650 Arch Street
Philadelphia, PA 19103-2029

V. SETTLEMENT CONFERENCE

Complainant encourages settlement of this proceeding at any time after issuance of the Complaint if such settlement is consistent with the provisions and objectives of RCRA. Whether or not a hearing is requested, Respondents may request a settlement conference with the Complainant to discuss the allegations of the Complaint, and the amount of the proposed civil penalty. **HOWEVER, A REQUEST FOR A SETTLEMENT CONFERENCE DOES NOT RELIEVE THE RESPONDENTS OF THEIR RESPONSIBILITY TO FILE A TIMELY ANSWER.**

In the event settlement is reached, its terms shall be expressed in a written Consent Agreement prepared by Complainant, signed by the parties, and incorporated into a Final Order signed by the Regional Administrator or his designee. The execution of such a Consent Agreement shall constitute a waiver of Respondents' right to contest the allegations of the Complaint and its right to appeal the proposed Final Order accompanying the Consent Agreement.

If you wish to arrange a settlement conference, please contact Ms. Thomas at (215) 814-2474 prior to the expiration of the thirty (30) day period following service of this Complaint. Once again, however, such a request for a settlement conference does not relieve each Respondent of its responsibility to file Answer(s) within thirty (30) days following service of this Complaint.

VI. QUICK RESOLUTION

Please note that the Quick Resolution settlement procedures set forth in 40 C.F.R. § 22.18 do not apply at this time in this proceeding because a specific penalty is not being proposed in the Complaint. See 40 C.F.R. § 22.18(a).

VII. SEPARATION OF FUNCTIONS AND *EX PARTE* COMMUNICATIONS

The following Agency officers, and the staffs thereof, are designated as the trial staff to represent the Agency as the party in this case: the Region III Office of Regional Counsel, the Region III Land and Chemicals Division, and the Office of the EPA Assistant Administrator for Enforcement and Compliance Assurance. Commencing from the date of issuance of this Complaint until issuance of a final agency decision in this case, neither the Administrator, members of the Environmental Appeals Board, Presiding Officer, Regional Administrator, nor Regional Judicial Officer, may have an *ex parte* communication with the trial staff on the merits of any issue involved in this proceeding. Please be advised that the Consolidated Rules prohibit any *ex parte* discussion of the merits of a case with, among others, the Administrator, members of the Environmental Appeals Board, Presiding Officer, Judicial Officer, Regional Administrator,

Regional Judicial Officer, or any other person who is likely to advise these officials on any decision in this proceeding after issuance of this Complaint.

Dated: 9/19/08

Abraham Ferdas, Director
Land and Chemicals Division
U.S. EPA Region III

Enclosures:
A. Consolidated Rules of Practice, Part 22
B. District of Columbia Municipal Regulations, Title 20, Chapter 55
C. Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19

References:
1. UST Penalty Guidance, http://www.epa.gov/OUST/directiv/od961012.htm
2. Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to the Debt Collection Improvement Act of 1996, Effective October 1, 2004), http://www.epa.gov/Compliance/resources/policies/civil/penalty/penaltymod-memo.pdf

CERTIFICATE OF SERVICE

I hereby certify that, on the date listed below, the original and one copy of the foregoing Administrative Complaint, Docket No. RCRA-03-2008-0430, has been filed with the EPA Region III Regional Hearing Clerk, and that a correct copy of the same was sent in the following manner to the persons listed below:

Via Certified Mail to:

Florida Avenue Mid-Atlantic Petroleum
Properties, LLC., and
Mid-Atlantic Petroleum Properties, LLC.
c/o Carlos Horcasitas
12311 Middlebrook Road, Suite 110
Germantown, MD 20874

Alphonse M. Alfano, Esq.
Bassman, Mitchell & Alfano, Chartered
1707 L Street, Suite 560
Washington, D.C. 20036

9/23/08
Date

9/22/08
Donzetta W. Thomas (3RC30)
Louis Ramalho (3RC30)
Co-Counsel for Complainant
U.S. Environmental Protection Agency, Region III
(215) 814-2474 / (215) 814-2681