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EPA

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

In the Matter of:)	Administrative Complaint,
)	Compliance Order and Notice of
Eagle Petroleum - Plantation Road, LLC)	Right to Request Hearing
711 Pocahontas Avenue)	
Roanoke, VA 24012)	
)	
VRH, LLC)	U.S. EPA Docket Number
4101-B Plantation Road)	RCRA-03-2009-0206
Roanoke, VA 24012)	
)	
Shree Ganesh, LLC)	
4101 Plantation Road)	Proceeding Under Section 9006 of the
Roanoke, VA 24012)	Resource Conservation and Recovery
)	Act, as amended, 42 U.S.C. Section
RESPONDENTS,)	6991e
)	
Turbo Food Mart)	
4101 Plantation Road)	
Roanoke, VA 24012)	
)	
FACILITY.)	

I. INTRODUCTION

This Administrative Complaint, Compliance Order 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 (Enclosure "A").

The Director of the Land and Division of U.S. EPA Region III ("Complainant"), hereby notifies Eagle Petroleum - Plantation Road, LLC ("Eagle"), VRH, LLC ("VRH") and Shree Ganesh, LLC ("Shree Ganesh") (collectively, "Respondents") that EPA has reason to believe that Respondents have violated Subtitle I of RCRA, 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 at the facility located at 4101 Plantation Road, Roanoke, VA (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 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 underground storage tank management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m. The provisions of the Virginia UST management program, through these final authorizations, 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. 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.*, a copy of which is enclosed with this Complaint (Enclosure "B").

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 Commonwealth of Virginia notice of the issuance of this Complaint in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(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. 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).
2. Respondent Eagle Petroleum - Plantation Road, LLC is a Virginia corporation and is a "person" as defined by Section 9001(5) of RCRA, 42 U.S.C. § 6991(6), and 9 VAC § 25-580-10.

3. Respondent VRH, LLC is a Virginia corporation and is a "person" as defined by Section 9001(5) of RCRA, 42 U.S.C. § 6991(6), and 9 VAC § 25-580-10.
4. Respondent Shree Ganesh, LLC is a Virginia corporation and is a "person" as defined by Section 9001(5) of RCRA, 42 U.S.C. § 6991(6), and 9 VAC § 25-580-10.
5. Each of the Respondents is, and at the time of the violations alleged in this Complaint, was the "owner" and/or "operator" of "underground storage tanks" ("USTs" and "UST systems"), as defined in Sections 9001(3), (4) and (10) of RCRA, 42 U.S.C. §§ 6991(3), (4), and (10), and 9 VAC § 25-580-10, located at the Facility, as described below.
6. On February 20, 2007, an EPA representative and the Virginia Department of Environmental Quality ("VADEQ") conducted a Compliance Evaluation Inspection ("CEI") of the USTs at the Facility pursuant to RCRA § 9005, 42 U.S.C. § 6991d.
7. At the time of the February 20, 2007 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. three (3) ten thousand (10,000) gallon fiberglass reinforced plastic tanks that were installed in January 1985 and that, at all times relevant hereto, routinely contained and were 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 9 VAC § 25-580-10 (hereinafter "USTs Nos. 1, 2, and 3"), and
 - b. a ten thousand (10,000) gallon fiberglass reinforced plastic tank that was installed in January 1985 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 9 VAC § 25-580-10 (hereinafter "UST No. 4"), and
 - c. a ten thousand (10,000) gallon fiberglass reinforced plastic tank that was installed in January 1985 and that, at all times relevant hereto, routinely contained and was used to store kerosene 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").
8. At all times relevant to the applicable violations alleged herein, USTs Nos. 1, 2, 3, 4, and 5 have been "petroleum UST systems" and "existing tank systems" as these terms are defined at 9 VAC § 25-580-10.

COUNT I

(Failure to perform monthly release detection for USTs Nos. 1, 2, 3, 4, and 5)

9. Paragraphs 1-8 of this Complaint are incorporated by reference as though fully set forth herein.
10. 9 VAC § 25-580-140 requires owners and operators of petroleum UST systems to provide release detection for tanks and piping that meet the requirements described therein.
11. 9 VAC § 25-580-140.1 provides that, with exceptions not applicable to UST Nos. 1, 2, 3, 4, and 5, tanks must be monitored at least every thirty days for releases using one of the release detection methods listed in 9 VAC § 25-580-160(4)-(8).
12. For the time period of June 30, 2004 through December 19, 2006, the method of release detection selected by Respondents for USTs Nos. 1, 2, 3, 4, and 5 was automatic tank gauging via a Veeder Root TLS-350 automatic tank gauge ("ATG") system pursuant to 9 VAC § 25-580-160(4).
13. From June 30, 2004 through December 19, 2006, Respondents failed to monitor USTs Nos. 1, 2, 3, 4, and 5 at least every thirty days as required by 9 VAC § 25-580-140.1.
14. For the time period of June 30, 2004 through December 19, 2006, Respondents did not provide any other approved method of release detection set forth in VAC § 25-580-160(4)-(8) for any of the five above-referenced USTs.
15. From June 30, 2004 through December 19, 2006, Respondents violated 9 VAC § 25-580-140.1 by failing to conduct release detection for USTs Nos. 1, 2, 3, 4, and 5.

COUNT II

(Failure to conduct annual line tightness testing or monthly pipe monitoring for USTs Nos. 1, 2, 3, 4, and 5)

16. Paragraphs 1-15 of this Complaint are incorporated by reference as though fully set forth herein.
17. 9 VAC § 25-580-140.2 states that underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets the requirements of either 9 VAC § 25-580-140.2.a (for pressurized piping) or 9 VAC § 25-580-140.2.b (for suction piping).
18. 9 VAC § 25-580-140.2.a(2) requires that underground piping that conveys regulated substances under pressure must 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.

19. The underground piping associated with USTs Nos. 1, 2, 3, 4, and 5 is and has been at all times relevant to this Complaint pressurized piping that conveys regulated substances under pressure.
20. At the time of the February 20, 2007 CEI, and in subsequent correspondence between EPA and the Respondents, the Respondents were able to produce records of annual line tightness testing for the following years for the following USTs:
 - a. for UST No. 1, Respondents produced annual line tightness tests dated March 17, 2000, August 18, 2006, and February 22, 2007; and
 - b. for USTs Nos. 2, 3, and 5 Respondents produced annual line tightness tests dated March 17, 2000 and February 22, 2007; and
 - c. for UST No. 4, Respondents produced an annual line tightness test dated March 2000.
21. From June 30, 2004 to July 15, 2008, Respondents did not conduct alternative monthly monitoring in accordance with 9 VAC § 25-580-170.2.a.(2) for USTs Nos. 1, 2, 3, 4, and 5.
22. Respondents did not conduct annual line tightness testing or monthly monitoring for the following periods and the following USTs:
 - a. For UST No. 1, Respondents failed to conduct annual line tightness testing in accordance with 9 VAC § 25-580-140.2.a(2) from June 30, 2004 to August 17, 2006.
 - b. For USTs Nos. 2, 3, and 5, Respondents failed to conduct annual line tightness testing in accordance with 9 VAC § 25-580-140.2.a(2) from June 30, 2004 to February 21, 2007.
 - c. For UST No. 4, Respondents failed to conduct annual line tightness testing in accordance with 9 VAC § 25-580-140.2.a(2) from June 30, 2004 to July 15, 2008.
23. Respondents' acts and/or omissions as alleged in Paragraphs 21 and 22, above, constitute violations by Respondents of 9 VAC § 25-580-140.2.

COUNT III

(Failure to conduct annual line leak detector testing for USTs Nos. 1, 2, 3, 4, and 5)

24. Paragraphs 1-23 of this Complaint are incorporated by reference as though fully set forth herein.
25. 9 VAC § 25-580-140.2.a(1) requires that underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector conducted in accordance with subdivision 1 of 9 VAC § 25-580-170.
26. 9 VAC § 25-580-170(1) requires that an annual test of the operation of the annual line leak detector must be conducted in accordance with the manufacturer's requirements.
27. The pressurized piping associated with USTs Nos. 1, 2, 3, 4, and 5 is, and has been at all times relevant to this Complaint, equipped with automatic line leak detectors.
28. From at least June 30, 2004 until July 15, 2008, Respondents failed to conduct annual tests of the operation of the automatic line leak detectors associated with USTs Nos. 1, 2, 3, 4, and 5.
29. Respondents' acts and/or omissions as alleged in Paragraph 28, above, constitute violations by Respondents of 9 VAC §§ 25-580-140.2.a(1) and 25-580-170(1).

COUNT IV

(Failure to provide overfill protection for UST No. 4)

30. Paragraphs 1-29 of this Complaint are incorporated by reference as though fully set forth herein.
31. 9 VAC § 25-580-60.4 states that, to prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems must comply with the new UST system spill and overfill prevention equipment requirements specified in subsection 3 of 9 VAC § 25-580-50.
32. 9 VAC § 25-580-50.3.a(2) requires that, with exceptions not relevant to this matter, owners and operator use overfill prevention equipment that will (a) automatically shut off flow into the tank when the tank is no more than 95% full; or (b) alert the transfer operator when the tank is no more than 90% full by restricting the flow into the tank or triggering a high-level alarm.
33. From June 30, 2004 until February 28, 2007, Respondents did not provide overfill protection meeting the requirements of 9 VAC § 25-580-50.3.a(2) for UST No. 4.

34. Respondents' acts and/or omissions as alleged in Paragraph 33, above, constitute a violation by Respondents of 9 VAC § 25-580-60.4.

COUNT V

(Failure to provide cathodic protection for steel piping associated with USTs Nos. 1, 2, 3, 4, and 5)

35. Paragraphs 1–34 of this Complaint are incorporated by reference as though fully set forth herein.
36. 9 VAC § 25-580-60.3 states that metal piping that routinely contains regulated substances and is in contact with the ground must be cathodically protected in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and must meet the requirements of 9 VAC § 25-580-50.2.b(2), (3) and (4).
37. Underground piping associated with USTs Nos. 1, 2, 3, 4, and 5 was, at all times relevant to the violation alleged herein, metal piping in contact with the ground that routinely contained a regulated substance.
38. From June 30, 2004 until February 9, 2007, Respondents failed to cathodically protect the metal piping associated with UST No. 4.
39. From June 30, 2004 until February 13, 2007, Respondents failed to cathodically protect the metal piping associated with USTs No. 1, 2, and 3.
40. From June 30, 2004 until February 14, 2007, Respondents failed to cathodically protect the metal piping associated with UST No. 5.
41. Respondents' acts and/or omissions as alleged in Paragraphs 38-40, above, constitute violations by Respondents of 9 VAC § 25-580-60.3.

COUNT VI

(Failure to maintain financial assurance for USTs Nos. 1, 2, 3, 4, and 5)

42. Paragraphs 1–41 of this Complaint are incorporated by reference as though fully set forth herein.
43. 9 VAC § 25-590-40 states that owners or operators of petroleum underground storage tanks shall demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks.

44. From at least June 30, 2004 until July 15, 2008, Respondents failed 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 USTs Nos. 1, 2, 3, 4, and 5 as required by 9 VAC § 25-590-40.
45. Respondents' acts and/or omissions as alleged in Paragraph 44, above, constitute violations by Respondents of 9 VAC § 25-590-40.

COUNT VII

(Failure to submit site characterization following a confirmed release)

46. Paragraphs 1–45 of this Complaint are incorporated by reference as though fully set forth herein.
47. 9 VAC § 25-580-230 states, with exceptions not relevant to this matter, that owners and operators of petroleum UST systems must, in response to a confirmed release from the UST system, comply with the requirements of Part VI of the VA UST Regulations (9 VAC § 25-580-230 through 9 VAC § 25-580-300).
48. 9 VAC § 25-580-260.A states that owners and operators must assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in 9 VAC § 25-580-230 and 9 VAC § 25-580-240. This information must include, but is not necessarily limited to, the data described in 9 VAC § 25-580-260.A.1 through 9 VAC § 25-580-260.A.4.
49. 9 VAC § 25-580-260.B states that within 45 days of release confirmation or another reasonable period of time determined by the Virginia State Water Control Board upon written request made and approved within 45 days after release confirmation, owners and operators must submit the information collected in compliance with 9 VAC § 25-580-260.A to the Virginia State Water Control Board in a manner that demonstrates its applicability and technical adequacy, or in a format and according to the schedule required by the Board.
50. On February 6, 2007, a release from an UST was confirmed at the Facility and reported to the Virginia State Water Control Board.
51. From February 7, 2007 until June 30, 2009, Respondents failed to submit the information collected in compliance with 9 VAC § 25-580-260.A to the Virginia State Water Control Board in a manner that demonstrates its applicability and technical adequacy, or in a format and according to a schedule required by the Board.
52. Respondents' acts and/or omissions as alleged in Paragraph 51, above, constitute a

violation by Respondents of 9 VAC § 25-580-260.B.

COMPLIANCE ORDER

Pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, Respondents are hereby ordered to:

53. Within thirty (30) days of the effective date of this Compliance Order, submit the information collected in compliance with 9 VAC § 25-580-260.A to the Virginia State Water Control Board in a manner that demonstrates its applicability and technical adequacy, or submit such information in a format and according to a schedule required by the Board, and thereafter comply with the applicable requirements of 9 VAC § 25-580-230 through 9 VAC § 25-580-300.
54. Within seventy-five (75) days of the effective date of this Compliance Order, submit to EPA and the VADEQ a report which documents and certifies Respondents' compliance with the terms of this Compliance Order.
55. Any notice, report, certification, data presentation, or other document submitted by any 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 shall be certified by a responsible representative of that Respondent, as described in 40 C.F.R. § 270.11(a).

The certification of the responsible representative required above shall 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: _____
Title: _____

56. All documents and reports to be submitted pursuant to this Compliance Order shall be sent to the following persons:

a. Documents to be submitted to EPA shall be sent certified mail, return receipt requested to the attention of:

Martin Matlin
Office of Land Enforcement (3LC70)
U.S. Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

and

Brianna Tindall
Assistant Regional Counsel (3RC30)
U.S. Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

b. One copy of all documents submitted to EPA shall also be sent by regular mail to the attention of:

Alicia Meadows
Senior Petroleum Facility Inspector
VA Department of Environmental Quality
West Central Regional Office
3019 Peters Creek Rd.
Roanoke, VA 24019

57. Respondents are hereby notified that failure to comply with any of the terms of this Compliance Order 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), the Debt Collection Improvement Act of 1996 (“DCIA”), and the most recent Civil Monetary Penalty Inflation Adjustment Rule, 73 *Fed. Reg.* 75340 (December 11, 2008).

58. If activities undertaken by Respondents in connection with this Compliance Order or

otherwise indicate that a release of a regulated substance from any UST at the Facilities may have occurred, Respondents may be required to undertake corrective action pursuant to applicable regulations in 9 VAC § 25-580-230.

59. The term “days” as used herein shall mean calendar days unless specified otherwise.

IV. 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 Penalties for Inflation* as set forth in 40 C.F.R. Part 19 and the September 21, 2004 memorandum by Acting EPA Assistant Administrator Thomas V. Skinner entitled, *Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule* (“2004 Skinner Memorandum”), for violations occurring after January 30, 1997, statutory penalties and penalties under the UST Guidance for, *inter alia*, RCRA Subtitle I violations, were increased 10% above the maximum amount to account for inflation, and statutory penalties for, *inter alia*, RCRA Subtitle I violations occurring after March 15, 2004, were increased by an additional 17.23% above the maximum amount to account for inflation. 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).

V. NOTICE OF RIGHT TO REQUEST A HEARING

Each Respondent 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 the Respondent is entitled to judgment as a matter of law. To request a hearing, the Respondent 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 Respondent has any knowledge. Where the Respondent has 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 the Respondent disputes; (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 any Respondent to admit, deny or explain any material allegation in the Complaint shall constitute an admission by that Respondent 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:

Brianna Tindall
Assistant Regional Counsel
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

VI. 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 A RESPONDENT OF ITS 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 the settling Respondent's 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 Brianna Tindall, Assistant Regional Counsel, at (215) 814-2623 prior to the expiration of the thirty (30) day period

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following service of this Complaint. Once again, however, such a request for a settlement conference does not relieve a Respondent of its responsibility to file an Answer within thirty (30) days following service of this Complaint.

Please note that the Quick Resolution settlement procedures set forth in 40 C.F.R. § 22.18 do not apply to this proceeding because the Complaint seeks a compliance order. See 40 C.F.R. § 22.18(a)(1).

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 & 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 or 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.

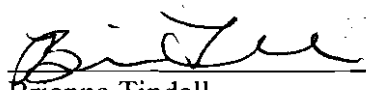
Dated: 6/24/09


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

- Enclosures: A. Consolidated Rules of Practice, 40 C.F.R. Part 22
- B. Virginia Tank Management Regulations,, 9 VAC § 25-580-10 et. seq., and 9 VAC § 25-590-10 et. seq
- C. UST Penalty Guidance
- D. Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19
- E. 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

Dated: 6/25/09

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Brianna Tindall
Assistant Regional Counsel
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029