

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

In the Matter of:)	
)	Administrative Complaint, Compliance
1231 New York Avenue, LLC)	Order and Notice of Opportunity for
1231 New York Avenue, NE)	Hearing
Washington, DC 20002)	
)	U.S. EPA Docket Number
Soheil Razavi)	RCRA-03-2012-0048
1231 New York Avenue, NE)	
Washington, DC 20002)	Proceeding Under Section 9006 of the
)	Resource Conservation and Recovery
RESPONDENTS,)	Act, as amended, 42 U.S.C. Section
)	6991e
New York Avenue BP Station)	
1231 New York Avenue NE)	
Washington, D.C. 20002)	
)	
FACILITY.)	

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**ADMINISTRATIVE COMPLAINT, COMPLIANCE ORDER
 AND NOTICE OF OPPORTUNITY FOR HEARING**

I. INTRODUCTION

This Administrative Complaint, Compliance Order and Notice of Opportunity for Hearing (“Complaint”) is issued by the United States Environmental Protection Agency (“EPA” or “Complainant”), pursuant to 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 referred to hereafter as “RCRA”), 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.

EPA hereby notifies New York Avenue, LLC, a District of Columbia limited liability company, and Soheil Razavi, jointly and individually, (“Respondents”) that EPA has determined that Respondents have violated certain provisions of Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991*m*, EPA’s regulations thereunder at 40 C.F.R. Part 280, and the District of Columbia Underground Storage Tank (“UST”) Program, as authorized by EPA pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991*c*. Section 9006(a)-(d) of RCRA, 42 U.S.C. § 6991*e*(a)-(d) authorizes EPA to take an enforcement action 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. Under Section 9006(d) of RCRA, 42 U.S.C. § 6991*e*(d), EPA may assess a civil penalty against any person who, among other things, violates any requirement of the applicable federal or state UST program.

Effective on 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 underground storage tank management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991*m*. *See* 62 Fed. Reg. 36698 (Jul. 9, 1997); 63 Fed. Reg. 24453 (May 4, 1998). The provisions of the District of Columbia UST management program, through such 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 5500 *et seq.*, and will be cited hereinafter as 20 DCMR §§ 5500 *et seq.*

To the extent that factual allegations or legal conclusions set forth in this Complaint are based on provisions of the District of Columbia authorized UST management program

regulations, those provisions are cited as authority for such allegations or conclusions.

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

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

COUNT 1

1. Respondent, New York Avenue, LLC, a District of Columbia limited liability company, is a “person” as defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.
2. Respondent, Soheil Razavi is an individual and a “person” as defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.
3. Respondent, New York Avenue, LLC is and, at all times relevant to the allegations in this Complaint, has been the “owner”, as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899, of “underground storage tanks” (“USTs”) and “UST systems” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899, located at 1231 New York Avenue BP, 1231 New York Avenue, NE, Washington, D.C. 20002.
4. Respondent, Soheil Razavi is and, at all times relevant to the allegations in this Complaint, has been the “operator”, as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899, of “underground storage tanks” (“USTs”) and “UST systems” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899, located at 1231 New York Avenue BP, 1231 New York Avenue, NE, Washington, D.C. 20002.
5. Pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a), an owner or operator of an UST must, upon request by any duly designated representative of EPA, furnish, in relevant part, information and records with regard to such UST. Pursuant to 20 DCMR § 5602.1, owners and

operators shall, in relevant part, cooperate fully with requests for document submission pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991*d*.

6. On March 16, 2011, EPA mailed to Respondents a Request for Information, issued pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991*d*(a). This Request for Information required Respondents to provide information regarding the USTs at the facility listed in Paragraphs 3 and 4, above. The letter containing such Request was received by Respondents on March 17, 2011.

7. The March 16, 2011 Request for Information required Respondents to provide the requested information no later than fifteen (15) calendar days from the date of Respondents' receipt of the Request. Respondents were thus required to provide the requested information by no later than April 1, 2011.

8. Having received no response to the March 16, 2011 Request for Information, EPA sent Respondents a follow-up notice letter dated May 18, 2011 regarding the outstanding Request for Information dated March 16, 2011. The follow-up notice letter dated May 18, 2011 was received by Respondents on May 19, 2011.

9. An EPA representative called Respondents by telephone on September 22, 2011. Respondents acknowledged receipt of EPA's Request for Information and stated that they would provide the required response shortly.

10. As of the date of this Complaint, Respondents have not sent to EPA the information requested in the March 16, 2011 Request for Information and subsequent telephone call, despite their assurances to EPA that it would send such information to EPA.

11. From at least April 1, 2011 to the date of this Complaint, Respondents have violated Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a) and 20 DCMR § 5602.1 by failing to provide a response to EPA's March 16, 2011 Request for Information.

III. COMPLIANCE ORDER

A. Within fifteen (15) calendar days after the Compliance Order becomes a Final Order, Respondents must provide a full response to the March 16, 2011 Request for Information, certified in the manner described in the Request.

B. Respondents must submit their response in the following manner:

(a) Two copies to EPA by certified mail, return receipt requested, or by overnight delivery with signature verification, to:

Stephen Forostiak
Land and Chemicals Division
Mail Code 3LC70
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

and

Louis F. Ramalho
Senior Assistant Regional Counsel
Mail Code 3RC50
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

(b) One copy to the District of Columbia, Department of the Environment, by regular mail, to:

Fianna Phill
Program Manager
Land Development and Remediation Branch
District Department of the Environment
1200 First Street, NE, 5th Floor
Washington, DC 20002

C. Respondents are hereby notified that failure to comply with any of the terms of this Compliance Order may subject Respondents to the 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 Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19.

IV. OPPORTUNITY TO REQUEST A HEARING

Respondents have the right to request a hearing to contest any matter of law or material fact set forth in this Complaint and Compliance Order or the terms of the Compliance Order. **To request a hearing, Respondents must file a written Answer to the Complaint with the Regional Hearing Clerk, Mail Code 3RC00, U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, within thirty (30) days of receipt of this Complaint.**

The Answer must clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint of which Respondents have any knowledge. Where Respondents have no knowledge of a particular factual allegation, the Answer should so state. The Answer should contain: (1) the circumstances or arguments which are alleged to constitute the grounds of any defense; (2) the facts which Respondent disputes; (3) the basis for opposing any proposed relief; and (4) a statement as to whether a hearing is requested. The denial of any material fact or the raising of any affirmative defense shall be construed as a request for a hearing. All material facts not denied in the Answer will be considered as admitted.

If Respondents fail to file a written Answer within (30) days of receipt of this Complaint, such failure shall constitute an admission of all facts alleged in the Complaint and a waiver of Respondent’s right to a hearing on such factual allegations. Pursuant to 40

C.F.R. § 22.37(b), the Compliance Order in this Complaint automatically becomes a Final Order if a written Answer requesting a hearing is not filed within 30 days after receipt of this Complaint.

Any hearing requested by Respondents will be conducted in accordance with the provisions of the Consolidated Rules of Practice. A copy of these rules is enclosed with this Complaint.

A copy of Respondents' Answer and all other documents that Respondents file in this action should be sent to the attorney assigned to represent EPA in this matter, as follows:

Louis F. Ramalho
Senior Assistant Regional Counsel
Mail Code 3RC50
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

V. SETTLEMENT CONFERENCE

Complainant encourages settlement of the proceedings 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. A request for a settlement conference does not relieve Respondents of their responsibility to file a timely Answer.

The procedures in the Consolidated Rules of Practice for quick resolution of a proceeding do not apply in this case because the Complaint seeks a compliance order. *See* 40 C.F.R. § 22.18(a).

In the event settlement is reached, the 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

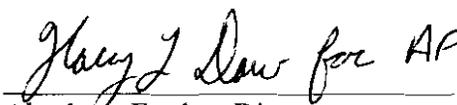
Agreement shall constitute a waiver of Respondents' right to contest the allegations of the Complaint and its right to appeal the proposed Final Order accompanying the Consent Agreement.

If you wish to arrange a settlement conference, please contact Louis F. Ramalho, Senior Assistant Regional Counsel, at (215) 814-2681. Please note that a request for a settlement conference does not relieve Respondents of their responsibility to file an Answer within thirty (30) days following its receipt of this Complaint.

VI. SEPARATION OF FUNCTIONS AND EX PARTE COMMUNICATIONS

The following Agency offices and officers, and their staffs, are designated as the trial staff to represent the Agency as a party in this case: U.S. EPA, Region III, Office of Regional Counsel; U.S. EPA, Region III, Land and Chemicals Management Division; and the EPA Assistant Administrator for Enforcement and Compliance Assurance. Commencing from the date of the 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 the Regional Judicial Officer, may have an *ex parte* communication with the trial staff or any representative of the Respondent on the merits of any issue involved in this proceeding. Please be advised that the Consolidated Rules of Practice prohibit any unilateral discussion or *ex parte* communication of the merits of a case with the Administrator, members of the Environmental Appeals Board, Presiding Officer, Regional Administrator, or the Regional Judicial Officer after issuance of a Complaint.

Date: 12/2/2011


Abraham Ferdas, Director
Land and Chemicals Division

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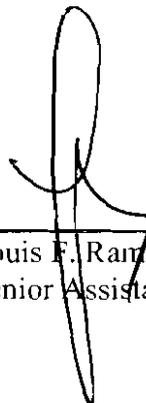
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of the above captioned United States Environmental Protection Agency's Administrative Complaint, Compliance Order and Notice of Opportunity for Hearing, with the Regional Hearing Clerk, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that true and correct copies of the Administrative Complaint, Compliance Order and Notice of Opportunity for Hearing, were sent by UPS Overnight mail, to:

1231 New York Avenue, LLC
 1231 New York Avenue, NE
 Washington, DC 20002

Soheil Razavi
 1231 New York Avenue, NE
 Washington, DC 20002

DEC 06 2011
 Date



 Louis F. Ranzalho
 Senior Assistant Regional Counsel

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

1650 Arch Street

Philadelphia, Pennsylvania 19103-2029

In the Matter of:

1231 New York Avenue, LLC
1231 New York Avenue, NE
Washington, DC 20002

Soheil Razavi
1231 New York Avenue, NE
Washington, DC 20002

RESPONDENTS,

New York Avenue BP Station
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) Resource Conservation and Recovery
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) 6991e

AFFIDAVIT OF STEPHEN FOROSTIAK

I, STEPHEN FOROSTIAK, hereby declare that:

1. I am employed by the United States Environmental Protection Agency, Region III, Philadelphia, Pennsylvania, Land and Chemicals Division, as an Enforcement Officer. I have been in the Land and Chemicals Division since July 2010.
2. My duties as an Enforcement Officer are, among other things, to conduct official investigations and inspections pursuant to Subtitle I of the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereafter as "RCRA"), analyze and evaluate evidentiary materials, make compliance determinations, and recommend appropriate enforcement actions for violations of Federal law.
3. As an Enforcement Officer in the Land and Chemicals Division, I perform underground storage tank ("UST") investigations to ensure compliance with Subtitle I of RCRA.
4. I was tasked with the compliance investigation of the USTs located at the 1231 New York Avenue BP, 1231 New York Avenue, NE, Washington, D.C. 20002 (the "Facility").
5. On March 16, 2011, EPA mailed to the owner and/or operator of the Facility, a Request for Information, issued pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a).

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This Request for Information required Respondents to provide information regarding the USTs at the Facility.

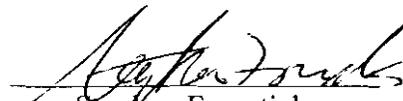
7. Having received no response to the March 16, 2011 Request for Information, EPA sent the owner and/or operator of the Facility a follow-up notice letter dated May 18, 2011 regarding the outstanding Request for Information dated March 16, 2011.

8. I called the owner and/or operator of the Facility and spoke to Mr. Soheil Razavi by telephone on September 22, 2011. Mr. Razavi acknowledged receipt of EPA's March 16, 2011 Request for Information, and Mr. Razavi stated that he would provide the required response shortly.

9. As of the date of this declaration, Mr. Razavi has not sent to EPA the information requested in the March 16, 2011 Request for Information and subsequent telephone call, despite his assurances to me that it would send such information to EPA.

10. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 12/6 DEC 06 2011


Stephen Forostiak