

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

**IN THE MATTER OF:**

Fuel on 1  
360 Main Street  
Luzerne, PA 18709

**Facility,**

Jai Radhey Corporation  
360 Main Street  
Luzerne, PA 18709

**Respondent.**

**Docket No.: RCRA-03-2020-0041**

U.S. EPA-REGION 3-RHC  
FILED-6DEC2019AM8:12

**EXPEDITED SETTLEMENT  
AGREEMENT AND FINAL ORDER**

**EXPEDITED SETTLEMENT AGREEMENT**

1. This Expedited Settlement Agreement (“Agreement”) is entered into by the Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”), and Jai Radhey Corporation (“Respondent”), 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)).
2. Complainant alleges that Respondent, operator of the underground storage tanks located at the Fuel on 1 facility, 305 Main Street, Luzerne, Pennsylvania (“Facility”), 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 State of Pennsylvania’s UST management program regulations set forth in the Pennsylvania Code, Title 25, Chapter 245, Sections 245.1 *et seq.*
3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter pursuant to Section 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.
4. Respondent is a “person,” and is the “operator” and/or “owner” of “underground storage tanks” (“USTs”) and “UST systems,” located at the Facility, as those terms are defined in 25 Pa. Code § 245.1.

5. At the time of the April 12, 2018 Compliance Evaluation Inspection performed by the EPA, and at all times relevant to the applicable violations alleged herein, three (3) USTs, as described in the following paragraphs, were located at the Facility:
  - a. An eight thousand (8,000) gallon tank that was installed in or about December 1988, and that, at all times relevant hereto, routinely contained regular-grade gasoline, a “regulated substance” as that term is defined in 25 Pa. Code § 245.1 (hereinafter “UST No. 1”).
  - b. An eight thousand (8,000) gallon tank that was installed in or about December 1988, and that, at all times relevant hereto, routinely contained super-grade gasoline, a “regulated substance” as that term is defined in 25 Pa. Code § 245.1 (hereinafter “UST No. 2”).
  - c. A four thousand (4,000) gallon tank that was installed in or about December 1987, and that, at all times relevant hereto, routinely contained diesel, a “regulated substance” as that term is defined in 25 Pa. Code § 245.1 (hereinafter “UST No. 3”).
6. Complainant has identified the following violations:
  - a. From at least March 17, 2017 until April 9, 2018, Respondent failed to conduct functionality testing of the line leak detectors, in violation of 25 Pa. Code § 245.445(1)
  - b. From at least March 17, 2017 until April 9, 2018, Respondent failed to conduct annual line tightness testing or monthly monitoring of the pressurized piping, in violation of 25 Pa. Code § 245.442(2)(i)(B)
7. The Complainant and the Respondent agree that settlement of this matter for a penalty of **\$1,880.00** is in the public interest, and has been calculated in accordance with 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 (the date it is filed with the Regional Hearing Clerk), Respondent shall submit a check made out to “**United States Treasury**” with the case name, address and docket number of this Agreement (RCRA-03-2020-0041), for the amount specified above, to:

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

Respondent shall send a copy of the payment to:

Melissa Toffel, UST Compliance Officer  
U.S. EPA Region III (Mail Code 3ED22)  
1650 Arch Street  
Philadelphia, PA 19103;

and,

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

9. In signing this Agreement, the Respondent: admits the jurisdictional allegations set forth in this Agreement; neither admits nor denies the specific factual allegations and conclusions of law set forth 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 set forth 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; and bear its own costs and attorney's fees.
10. By its signature below, the Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that he or she has: (1) corrected the alleged violations, and (2) submitted true and accurate documentation of those corrections.
11. This Agreement and attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations alleged in this Agreement.
12. 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 RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.
13. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.
14. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind Jai Radhey Corporation to this Agreement.

For Respondent: Jai Radhey Corporation

Name (print): MAULIK PATEL

Title (print): OWNER

Signature: M.R. Patel

Date 11/20/2019

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

After reviewing the Expedited Settlement 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.

NOV 26 2019

Date



Karen Melvin  
Director, Enforcement and Compliance  
Assurance Division  
U.S. EPA – Region III  
Complainant




Revised Field Citation Program and ESA Pilot, effective October 5, 2018, and the statutory factors set forth in 9006(c) of RCRA, 42 U.S.C. § 6991e(c).

**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) and (3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **ONE THOUSAND EIGHT HUNDRED AND EIGHTY DOLLARS (\$1,880.00)**, 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.

Dec. 5, 2019  
Date

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

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**CERTIFICATE OF SERVICE**

I certify that on DEC 06 2019, the original and one (1) copy of the foregoing Consent Agreement and Final Order, were filed with the EPA, Region III, Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copy served via Certified Mail, Return Receipt Requested, Postage Prepaid, to:

Maulik Patel, Operator  
Jai Radhey Corporation  
360 Main Street  
Luzerne, PA 18709

Copy served via Hand Delivery or Inter-Office Mail to:

Melissa Toffel  
UST Compliance Officer  
U.S. EPA Region III  
Enforcement and Compliance Assurance Division (Mail Code 3ED22)  
1650 Arch Street  
Philadelphia, PA 19103-2029

Dated: DEC 06 2019

*Bevin Esposito*  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region III

TRACKING NUMBER(S): 1Z A43 F71 A4 9736 6957



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