



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

SEP 13 2019

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Article Number: 7018 1830 0000 9639 5354

Satnam Singh, President
Cheema Oil Corporation
41 West Harriet Ave.
Palisades Park, NJ 07650

Re: In the Matter of Cheema Oil Corporation
Docket Number RCRA-02-2019-7501

Dear Mr. Singh:

Enclosed is the Complaint, Compliance Order and Opportunity for Hearing in the above-referenced proceeding. The Complaint alleges violations of the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901 *et seq.*

You have the right to a formal hearing to contest any of the allegations in the Complaint and/or to contest the penalty proposed in the Complaint. If you wish to contest the allegations and/or the penalty proposed in the Complaint, you must file an Answer within **thirty (30)** days of your receipt of the enclosed Complaint with the Regional Hearing Clerk of the Environmental Protection Agency ("EPA"), Region 2, at the following address:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, New York 10007-1866

If you do not file an Answer within thirty (30) days of receipt of this Complaint and have not obtained a formal extension for filing an Answer from the Regional Judicial Officer of Region 2, a default order may be entered against you and the entire proposed penalty may be assessed.

Whether or not you request a formal hearing, you may request an informal conference with EPA to discuss any issue relating to the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint to pursue the possibility of settlement and to have an informal conference with EPA. However, a request for an informal conference **does not** substitute for a written Answer, affect what you may choose to say in an Answer, or extend the thirty (30) days by which you must file an Answer requesting a hearing.

You will find enclosed a copy of the "Consolidated Rules of Practice," which govern this proceeding. (A brief discussion of some of these rules appears in the later part of the Complaint).


U.S. Environmental Protection Agency
2019 SEP 17 11 08 05
REGIONAL HEARING CLERK

For your general information and use, I also enclose an Information Sheet for U.S. EPA Small Business Resources which you may find helpful.

EPA encourages the use of Supplemental Environmental Projects, where appropriate, as part of any settlement. I am enclosing a brochure on "EPA's Supplemental Environmental Projects Policy." Please note that these are only available as part of a negotiated settlement and are not available if this case has to be resolved by a formal adjudication.

If you have any questions or wish to schedule an informal conference, please contact the attorney whose name is listed in the Complaint.

Sincerely,



Dore LaPosta, Director
Enforcement and Compliance Assurance Division

 Enclosures

cc: Karen Maples, Regional Hearing Clerk (without enclosures)

Mike Hollis, Bureau Chief
Bureau of Hazardous Waste & UST Compliance Enforcement
New Jersey Department of Environmental Protection
Mail Code 09-03
P.O. Box 420
Trenton, NJ 08625-0420

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2**

U.S. Environmental
Protection Agency
2019 SEP 17 AM 8:05
DIRECTOR'S HEARING
CLERK

IN THE MATTER OF:

Cheema Oil Corporation

Respondent.

Proceeding Under Section 9006
of the Solid Waste Disposal Act,
as amended

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

DOCKET NO. RCRA-02-2019-7501

COMPLAINT

1. This is a civil administrative proceeding instituted pursuant to Section 9006 of the Solid Waste Disposal Act, as amended, 42 United States Code ("U.S.C.") § 6901 et seq. (the "Act").
2. Complainant in this proceeding, Dore LaPosta, Director, Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region 2 ("EPA"), has been duly delegated the authority to institute this action.
3. Respondent is Cheema Oil Corporation ("Cheema"), a New Jersey corporation, located at 41 West Harriet Ave., Palisades Park, NJ 07650.
4. Cheema is the owner, of, at least, two gasoline service stations situated at 700 Route 17 South Carlstadt, NJ ("Carlstadt Facility") and 123 East Columbia Ave., Palisades, NJ ("Palisades Facility").
5. Cheema is a "person" within the meaning of Section 9001(5) of the Act, 42 U.S.C. § 6991(5), and 40 Code of Federal Regulations ("C.F.R.") § 280.12.
6. Cheema, at all relevant times for this complaint, was and is the "owner" and "operator" of underground storage tank systems or "UST systems," at both the Carlstadt and Palisades Facility as those terms are defined in Section 9001 of the Act, 42 U.S.C. § 6991, and 40 C.F.R. § 280.12.

7. Pursuant to 40 C.F.R. § 280.12, EPA is the “implementing agency” responsible for enforcing the requirements of the Act and the regulations promulgated pursuant thereto which are the subject of this Complaint.
8. Pursuant to Sections 2002, 9002, and 9003 of the Act, 42 U.S.C. §§ 6912, 6991a, and 6991b, EPA promulgated regulations setting forth requirements for owners and operators of UST systems, codified at 40 C.F.R. Part 280. These regulations include requirements related to release detection, overfill prevention, record-keeping, upgrade requirements, temporary and permanent closure, and financial assurance.
9. Forty C.F.R. § 280.12 defines an “Underground storage tank” or “UST” as any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground.
10. Forty C.F.R. § 280.12 defines an “Existing tank system” as a tank system used to contain an accumulation of regulated substances or for which installation has commenced on or before December 22, 1988.
11. Forty C.F.R. § 280.12 defines a “New tank system” as a tank system used to contain an accumulation of regulated substances and for which installation has commenced after December 22, 1988.
12. Forty C.F.R. § 280.12 defines “Regulated substance” as: (a) Any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under subtitle C), and (b) Petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).
13. Pursuant to 40 C.F.R. § 280.12, the term “regulated substance” includes but is not limited to petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.
14. Forty C.F.R. § 280.12 defines “Petroleum UST system” as an underground storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.
15. RCRA § 9005, 42 U.S.C. § 6991d provides, in relevant part, that “any owner or operator of an underground storage tank (or any tank subject to study under Section 9009 that is used for storing regulated substances) shall, upon request of any officer, employee or

representative of the Environmental Protection Agency... furnish information relating to such tanks....”

16. Pursuant to 40 C.F.R. § 280.34, owners and operators of UST systems must cooperate fully with inspections by the implementing agency, as well as requests for document submission, testing, and monitoring by the owner or operator pursuant to Section 9005 of Subtitle I of the Resource Conservation and Recovery Act, as amended (“RCRA”).
17. Pursuant to 40 C.F.R. § 280.20(c)(1)(ii), owners and operators of UST systems must use overflow protection equipment that will: (A) Automatically shut off flow into the tank when the tank is no more than 95 percent full; or (B) Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm; or (C) Restrict flow 30 minutes prior to overflowing, alert the transfer operator with a high level alarm one minute before overflowing, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overflowing. (Forty C.F.R. § 280.20(c)(3) contains some restrictions on the use of flow restrictors in vent lines.)
18. Pursuant to 40 C.F.R. § 280.93(a), owners or operators of petroleum underground storage tanks must 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.
19. On or about August 6, 2018 and August 9, 2018, Mr. Jeffrey Blair, a designated and credentialed contract inspector of the EPA conducted an inspection of the USTs at Respondent’s Carlstadt and Palisades Facilities (“EPA Inspections”).

COUNT 1 – Failure to Respond to Request for Information.

20. Complainant repeats, realleges and incorporates by reference paragraphs 1 through 19 with the same force and effect as if fully set forth below.
21. On or about November 15, 2018, EPA issued an Information Request Letter (“IRL”) pursuant to Section 9005(a) of RCRA and 40 C.F.R. § 280.34 to Respondent (the “November 2018 IRL”).
22. The November 2018 IRL sought information regarding Cheema’s Carlstadt and Palisades Facilities including ownership and operation of the Facilities, general UST requirements (e.g., registration application), overflow and spill protection, leak detection, tank closure, UST maintenance, and financial responsibility.
23. The November 2018 IRL notified Cheema that a response was due within thirty (30) calendar days of receipt of the November 2018 IRL.
24. Respondent received the November 2018 IRL on or about November 19, 2018.

25. In a letter dated January 29, 2019, EPA issued to Cheema a “2nd Request – Response Overdue” letter (“January 2019 Overdue Notice Letter”). The January 2019 Overdue Notice Letter informed Cheema that EPA had not yet received a response to the November 2018 IRL and that Respondent shall provide such response or contact EPA within 5 days of receipt of this letter.
26. Cheema received the January 2019 Overdue Notice Letter on or about January 31, 2019.
27. On July 18, 2019, EPA Enforcement Officer Mr. Paul Sacker attempted to contact, by phone, Cheema at its Palisades Facility. An unnamed individual answered the phone and took a message requesting that a Cheema representative return Mr. Sacker’s call.
28. To date, EPA has not received a response to its November 2018 IRL.
29. Respondent’s failure to respond to the November 2018 IRL, constitutes a violation of Section 9005 of the Act, 42 U.S.C. § 6991d, and 40 C.F.R. § 280.34.
30. Respondent is liable for civil penalties pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e(d) for its failure to respond to the IRL between, at least, December 19, 2018 through the present.
31. Section 9005 of the Act, 42 U.S.C. § 6991d, and 40 C.F.R. § 280.34 constitute requirements of Subtitle I of RCRA for purposes of Section 9006(a) of RCRA, 42 U.S.C. § 6991e(a).

COUNT 2 – Failure to Provide Adequate Overfill Prevention

32. Complainant repeats, realleges and incorporates by reference paragraphs 1 through 31 with the same force and effect as if fully set forth below.
33. At the time of the August 9, 2018 EPA Inspection of the Palisades Facility, the Underground Storage Tank Registration Summary (“USTRS”) at the Facility showed that there were four (4) active USTs at the Facility.
34. The four active USTs at the Palisades Facility were each installed on or after December 22, 1988 making them a new tank system as defined by 40 C.F.R. § 280.12.
35. During the August 9, 2018 EPA Inspection of the Palisades Facility, Mr Blair was unable to visually observe an overfill device on UST No. 03.
36. EPA’s November 2018 NOV-IRL requested that Respondent provide documentation showing that a functioning overfill prevention device was installed and operating for UST No. 03 at the Palisades Facility on the day of the EPA Inspection. The IRL also stated that if, following the EPA Inspection, the overfill prevention device for UST No. 03 had been repaired or replaced, to provide documentation showing such repair or replacement or to state why such documentation of a repair or replacement could not be provided.

37. To date, Respondent has not provided any documentation showing that UST No. 3 at the Palisades Facility had a working overfill prevention device on the date of the EPA inspection or that such an overfill prevention device had subsequently been repaired or replaced.
38. Respondent did not have an overfill prevention device for UST No. 03 in use at the Palisades Facility at the time of the Inspection.
39. Respondent's failure to provide an adequate overfill prevention device for UST No. 3 at the Palisades Facility on at least August 9, 2018 constitutes a violation of 40 C.F.R. §280.20(c)(1)(ii).

PROPOSED CIVIL PENALTY

The proposed civil penalty has been determined in accordance with Section 9006(d)(2)(A) of the Act, 42 U.S.C. § 6991e(d)(2)(A). For purposes of determining the amount of any penalty to be assessed, Section 9006(c) of the Act, 42 U.S.C. § 6991e(c)14, states that, "Any order issued under this section shall... assess a penalty, if any, which the Administrator [of EPA] determines is reasonable taking into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements." Additionally, Sections 9006(e)(1) and (2) of the Act, 42 U.S.C. § 6991e(e)(1) and (2), provide that EPA "may... take[] into account in determining the terms of a civil penalty [the] compliance history of an owner or operator" of underground storage tanks and "[a]ny other factor the Administrator [of EPA] considers appropriate[.]" respectively.

To develop the proposed penalty in this Complaint, Complainant has taken into account the particular facts and circumstances of this case, to the extent known at the time of its filing, and has used "US EPA Penalty Guidance for Violations of UST Requirements" (EPA's "UST Penalty Policy"), dated November 14, 1990 as amended by EPA's October 5, 2018 Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank (UST) Regulations and Revised Field Citation Program and ESA Pilot. ("EPA's Revised UST Penalty Policy") EPA's revised UST Penalty Policy is available upon request and also publicly available on the Internet at <https://www.epa.gov/sites/production/files/2018-10/documents/final-interim-consolidated-ust-penalty-policy.pdf>. EPA's UST Penalty Policies provide guidance to effect a rational, consistent and equitable calculation methodologies for applying the statutory penalty criteria (enumerated above) to particular cases.

Section 9006(d)(2)(A) of the Act, 42 U.S.C. § 6991e(d)(2)(A), authorizes the assessment of a civil penalty up to \$10,000 for each tank for each day of violation of any requirement or standard promulgated by the Administrator of EPA. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through 2015 (the "Inflation Adjustment Act"), 28 U.S.C. § 245, required EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Inflation Adjustment Act, the maximum statutory civil penalty under Section 9006(d)(2) of RCRA, 42 U.S.C. § 6991e(d)(2), is \$24,017 per day for each violation occurring after November 2, 2015, where the penalty is assessed on or after February 6, 2019. *See* 40 C.F.R. Part 19 and 84 *Fed Reg* 2056 (February 6, 2019) and 84 *Fed. Reg.* 5955 (February 25, 2019).

A penalty calculation worksheet to support the penalty figure for the violation cited in this Complaint is included in Attachment 1, below.

The Complainant proposes, subject to the receipt and evaluation of further relevant information, that the Respondent be assessed the following civil penalty for the violations alleged in the Complaint:

Total Proposed Penalty: **\$12,250**

| Facility/Violation Number | UST(s) at Issue | 40 CFR Part 280 Requirement Violated | Violation Summary Failure to: | Proposed Penalty for Count |
|---------------------------|-----------------|--------------------------------------|---|----------------------------|
| Count 1 | N/A | 280.34 and Section 9005(a) of RCRA | Failure to respond to IRL | \$ 8,750.00 |
| Count 2 | 03 | 280.20(c)(1)(ii) | Failure to provide adequate overfill prevention device. | \$ 3,500.00 |
| Total Penalty | | | | \$12,250.00 |

EPA reserves its authority to seek additional penalties if Respondent's failure to respond to the Information Request Letter continues.

COMPLIANCE ORDER

Based on the foregoing, and pursuant to the authority of Section 9006 of the Act, 42 U.S.C. § 6991e, Complainant issues the following Compliance Order to Respondent, which shall take effect with respect to the Respondent thirty (30) days after service of this Order (i.e., the effective date), unless by that date, the Respondent has requested a hearing pursuant to 40 C.F.R. § 22.15. See 42 U.S.C. § 6991(e)(b) and 40 C.F.R. §§ 22.37(b) and 22.7(c):

Respondent shall certify compliance with all requirements of 40 C.F.R. Part 280 for each federally regulated UST system at the Palisades and Carlstadt Facilities located at 129 East Columbia Ave., Palisades Park, NJ and 700 Route 17 South, Carlstadt, NJ, respectively (the "Facilities"). Specifically, Respondent shall:

- a.) Ensure that all USTs at the Palisades Facility have operating overfill prevention devices installed in accordance with 40 C.F.R. § 280.20(c).
- b.) Provide within thirty (30) days after service of this Order a complete response to EPA's November 15, 2018 information request letter, a copy of which is enclosed, in accordance with 40 C.F.R. § 280.34 and Section 9005 of the Act, 42 U.S.C. § 6991d. As part of its full response, Respondent shall also provide documentation that the USTs at the Facilities are covered for third party bodily injury liability resulting from any releases from the USTs in accordance with 40 C.F.R. § 280.93(a).

Within forty-five (45) days of the effective date of this Compliance Order, if the Respondent is in noncompliance with the provisions of this Compliance Order, the Respondent shall submit to EPA written notice stating the reasons for noncompliance and shall provide a schedule for achieving expeditious compliance with the requirement. Such written notice shall contain the following certification:

I certify that the information contained in this written notice and the accompanying supporting documentation is true, accurate and complete to the best of my knowledge and belief. As to the identified portions of this response for which I am unable personally to verify their truthfulness, accuracy and/or completeness, I certify that this response and all accompanying supporting documentation were prepared in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. I am aware that there are significant penalties for submitting false, misleading and/or incomplete information, and such penalties might include criminal fines and imprisonment for knowing violations.

Signature: _____

Name: _____

Title: _____

Respondent shall submit the notice required to be submitted pursuant to this paragraph to:

**Claudia Gutierrez, Team Leader
UST Team, RCRA Compliance Branch
Enforcement and Compliance Assurance Division
RCRA Compliance Branch
290 Broadway, 21st Floor
New York, NY 10007
Attn: Paul Sacker**

NOTICE OF LIABILITY FOR ADDITIONAL CIVIL PENALTIES

Pursuant to Section 9006(a)(3) of the Act, 42 U.S.C. §6991e(a)(3), and in accordance with the 84 *Fed Reg* 2056 (February 6, 2019) and 84 *Fed. Reg.* 5955 (February 25, 2019) codified at 40 C.F.R. Part 19), a violator failing to comply with the requirements of a Compliance Order that has taken effect within the time specified in the Order is liable for a civil penalty up to \$60,039 for each day of continued noncompliance.

PROCEDURES GOVERNING THIS ADMINISTRATIVE LITIGATION

The rules of procedure governing this civil administrative litigation were originally set forth in 64 *Fed. Reg.* 40138 (July 23, 1999), entitled CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENTS OF CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION COMPLIANCE ORDERS, AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS (“Consolidated Rules of Practice”), and which are codified at 40 C.F.R. Part 22. These rules were amended to simplify the administrative processing of cases by expanding the availability of electronic filing and service procedures and eliminating inconsistencies. 82 *Fed. Reg.* 2230, January 9, 2017. These amendments became effective on May 22, 2017 and apply to all new case filings. A copy of the current Consolidated Rules of Practice, incorporating these amendments, accompanies this “Amended Complaint, Compliance Order, and Notice of Opportunity for Hearing” (hereinafter the “Complaint”).

Upon receipt of a compliance order issued under Section 9006(a) of the Act, 42 U.S.C. § 6991e(a) Respondent may seek administrative review in accordance with 40 C.F.R. §§ 22.15 and 22.37(b). The Respondent may seek judicial review of the compliance order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706, once it is final and reviewable pursuant to RCRA Section 9006(b), 42 U.S.C. § 6991e(b), and 40 C.F.R. §§ 22.31 and 22.37(b).

A. Answering the Complaint

Where Respondent intends to contest any material fact upon which the Complaint is based, to contend that the proposed penalty is inappropriate or to contend that Respondent is entitled to judgment as a matter of law, Respondent must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written Answer to the Complaint. 40 C.F.R. § 22.15(a). Such Answer must be filed within 30 days after service of a Complaint. 40 C.F.R. §§ 22.15(a) and 22.7(c). The address of the Regional Hearing Clerk of EPA, Region 2, is:

**Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, N.Y. 10007-1866**

(NOTE: Any documents that are filed after the Answer has been filed should be filed as specified in “D” below)

Respondent shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. 40 C.F.R. § 22.15(a).

Respondent’s Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which Respondent has any knowledge. 40 C.F.R. § 22.15(b). Where Respondent lacks knowledge of a particular

factual allegation and so states in its Answer, the allegation is deemed denied. 40 C.F.R. § 22.15(b). The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense; (2) the facts that Respondent disputes (and thus intends to place at issue in the proceeding); and (3) whether Respondent requests a hearing. 40 C.F.R. § 22.15(b).

Respondent's failure affirmatively to raise in the Answer facts that constitute or that might constitute the grounds of its defense may preclude Respondent, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a hearing.

B. Opportunity to Request a Hearing

If requested by Respondent in its Answer, a hearing upon the issues raised by the Complaint and Answer may be held. 40 C.F.R. § 22.15(c). If, however, Respondent does not request a hearing, the Presiding Officer (as defined in 40 C.F.R. § 22.3) may hold a hearing if the Answer raises issues appropriate for adjudication. 40 C.F.R. § 22.15(c). With regard to the Compliance Order in the Complaint, unless Respondent requests a hearing pursuant to 40 C.F.R. § 22.15 within 30 days after such Order is served, such Order shall automatically become final. 40 C.F.R. § 22.37.

Any hearing in this proceeding will be held at a location determined in accordance with 40 C.F.R. § 22.21(d). A hearing of this matter will be conducted in accordance with the applicable provisions of the Administrative Procedure Act, 5 U.S.C. §§ 551-59, and the procedures set forth in Subpart D of 40 C.F.R. Part 22.

C. Failure to Answer

If Respondent fails in its Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. 40 C.F.R. § 22.15(d). If Respondent fails to file a timely (*i.e.*, in accordance with the 30-day period set forth in 40 C.F.R. § 22.15(a)) Answer to the Complaint, Respondent may be found in default upon motion. 40 C.F.R. § 22.17(a). Default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. 40 C.F.R. § 22.17(a). Following a default by Respondent for a failure to timely file an Answer to the Complaint, any order issued therefore shall be issued pursuant to 40 C.F.R. § 22.17(c).

Any penalty assessed in the default order shall become due and payable by the Respondent without further proceedings 30 days after the default order becomes final pursuant to 40 C.F.R. § 22.27(c). 40 C.F.R. § 22.17(d). If necessary, EPA may then seek to enforce such final order of default against the Respondent, and to collect the assessed penalty amount. Any default order requiring compliance action shall be effective and enforceable against Respondent without further proceedings on the date the default order becomes final under 40 C.F.R. § 22.27(c). 40 C.F.R. § 22.17(d).

D. Filing of Documents Filed After the Answer

Unless otherwise ordered by the Presiding Officer for this proceeding, all documents filed after Respondent has filed an Answer should be filed with the Headquarters Hearing Clerk acting on behalf of the Regional Hearing Clerk, addressed as follows:

If filing by the United States Postal Service:

Headquarters Hearing Clerk
Office of the Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900R
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

If filing by UPS, FedEx, DHL or other courier or personal delivery, address to:

Headquarters Hearing Clerk
Office of the Administrative Law Judges
Ronald Reagan Building, Room M1200
U.S. Environmental Protection Agency
1300 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

E. Exhaustion of Administrative Remedies

Where Respondent fails to appeal an adverse initial decision to the Environmental Appeals Board pursuant to 40 C.F.R. § 22.30, and that initial decision thereby becomes a final order pursuant to the terms of 40 C.F.R. § 22.27(c), Respondent waives its right to judicial review. 40 C.F.R. § 22.27(d).

In order to appeal an initial decision to the Agency's Environmental Appeals Board [EAB; see 40 C.F.R. § 1.25(e)], Respondent must do so "within thirty (30) days after the initial decision is served" upon the parties. 40 C.F.R. § 22.30(a). Pursuant to 40 C.F.R. § 22.7(c), where service is effected by mail, "... 5 days shall be added to the time allowed by these Consolidated Rules of Practice for the filing of a responsive document." Note that the 45-day period provided for in 40 C.F.R. § 22.27(c) [discussing when an initial decision becomes a final order] does not pertain to or extend the time period prescribed in 40 C.F.R. § 22.30(a) for a party to file an appeal to the EAB of an adverse initial decision.

INFORMAL SETTLEMENT CONFERENCE

Whether or not Respondent requests a formal hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. 40 C.F.R. § 22.18(b). At an informal conference with representative(s) of Complainant, Respondent may

comment on the charges made in this Complaint, and Respondent may also provide whatever additional information that it believes is relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged; (2) any information relevant to Complainant's calculation of the proposed penalty; (3) the effect the proposed penalty would have on Respondent's ability to continue in business; and (4) any other special facts or circumstances Respondent wishes to raise.

Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with Respondent, or any relevant information previously not known to Complainant, or to dismiss any or all of the charges, if Respondent can demonstrate that the relevant allegations are without merit and that no cause of action as herein alleged exists. Respondent is referred to 40 C.F.R. § 22.18.

Any request for an informal conference or any questions that Respondent may have regarding this Complaint should be directed to:

Gary Nurkin
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866
(212) 637-3195 (phone)
nurkin.gary@epa.gov

The parties may engage in settlement discussions irrespective of whether Respondent has requested a hearing. 40 C.F.R. § 22.18(b)(1). Respondent's requesting a formal hearing does not prevent it from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint. Complainant does not deem a request for an informal settlement conference as a request for a hearing as specified in 40 C.F.R. § 22.15(c).

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 C.F.R. § 22.15. No penalty reduction, however, will be made simply because an informal settlement conference is held.

Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written Consent Agreement. 40 C.F.R. § 22.18(b)(2). In accepting the Consent Agreement, Respondent waives its right to contest the allegations in the Complaint and waive their right to appeal the final order that is to accompany the consent agreement. 40 C.F.R. § 22.18(b)(2). In order to conclude the proceeding, a final order ratifying the parties' agreement to settle will be executed. 40 C.F.R. § 22.18(b)(3).

Respondent's entering into a settlement through the signing of such Consent Agreement and its complying with the terms and conditions set forth in the such Consent Agreement terminates this

administrative litigation and civil proceedings arising out of the allegations made in the Complaint. Respondent's entering into a settlement does not extinguish, waive, satisfy or otherwise affect their obligation and responsibility to comply with all applicable statutory and regulatory requirements governing the installation, operation, maintenance and closure of underground storage tanks (including associated equipment, such as piping), and to maintain such compliance.

RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

If, instead of filing an Answer, Respondent wishes seeks to pay the total amount of the proposed penalty within thirty (30) days after receipt of the Complaint, Respondent should promptly contact the Assistant Regional Counsel identified above.

Dated: SEP 13 2019


Dore LaPosta, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency -Region 2
290 Broadway
New York, NY 10007-1866

To: Satnam Singh, President
Cheema Oil Corporation
41 West Harriet Ave.
Palisades Park, NJ 07650

cc: Mr. Mike Hollis
Bureau Chief
Bureau of Hazardous Waste and UST Compliance and Enforcement
New Jersey Department of Environmental Protection
Mail Code 09-03
P.O. Box 420
Trenton, New Jersey 08625-0420

CERTIFICATE OF SERVICE

This is to certify that I have this day caused to be mailed a copy of the foregoing Complaint, Compliance Order, and Notice of Opportunity for Hearing, bearing docket number RCRA-02-2019-7501 which includes a copy of the November 2018 IRL, and a copy of the Consolidated Rules of Practice, 40 C.F.R. Part 22, by certified mail, return receipt requested, to:

Satnam Singh, President
Cheema Oil Corporation
41 West Harriet Ave.
Palisades Park, NJ 07650

I hand-carried the original and a copy of the foregoing Complaint to the Office of Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Dated: September 17, 2019 
New York, New York

2015, 11/25/15
New York
New York