

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
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In the Matter of:)	
)	
Euclid of Virginia, Inc)	
4225 Connecticut Avenue)	
Washington, DC 20008)	Administrative Complaint, Compliance
)	Order and Notice of Opportunity for
RESPONDENT)	Hearing
)	
420 Rhode Island Avenue, NW)	
Washington, DC 20001)	
)	
42382 John Mosby Highway)	
Chantilly, VA 22021)	U.S. EPA Docket Number
)	RCRA-03-2007-0336
)	
12793 Spotswood Trail)	
Ruckersville, VA 22968)	
)	
4123 Ocean Gate Highway)	
Trappe, MD 21673)	
)	Proceeding Under Section 9006 of the
6038 Baltimore Avenue)	Resource Conservation and Recovery
Hyattsville, MD 20781)	Act, as amended, 42 U.S.C. Section
)	6991e
)	
3800 Rhode Island Avenue)	
Brentwood, MD 20722)	
)	
1576 Wisconsin Avenue, NW)	
Washington, DC 20007)	
)	
15501 New Hampshire Avenue)	
Silver Spring, MD 20905)	
)	
5608 Buckeystown Pike)	
Frederick, MD 21701)	
)	
FACILITIES)	

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 Euclid of Virginia, Inc. ("Respondent") that EPA has determined that Respondent has violated certain provisions of Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991*i*, EPA's regulations thereunder at 40 C.F.R. Part 280, and the Maryland, Virginia and District of Columbia State Underground Storage Tank ("UST") Programs, 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 June 30, 1992, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the State of Maryland 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. §§ 6991-6991i. The Commonwealth of Virginia was granted final authorization to administer a state UST management program on October 28, 1998, and the District of Columbia was granted final authorization to administer a state UST management program on May 4, 1998. The provisions of the Maryland, Virginia and District of Columbia UST management programs, through these final authorizations, are enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. Prior to the effective date of federal authorization of the Maryland, Virginia and District of Columbia UST management programs, the provisions of the federal UST program, at 40 C.F.R. Part 280, were applicable to USTs/UST systems located in such states and such provisions are enforced by EPA against owners and operators of USTs/UST systems for violations of the federal UST program during that time period.

Maryland's authorized UST program regulations are set forth in Sections 26.10.02 *et seq.* of the Maryland Department of the Environment ("MDE") Code of Maryland Regulations and will be cited hereinafter as COMAR §§ 26.10.02 *et seq.* Virginia's authorized UST program regulations are set forth in the Virginia Administrative Code, Title 9, Agency 25, Chapter 580, Sections 10 *et seq.*, and will be cited hereinafter as 9 VAC 25-580-10, *et seq.* 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.*

To the extent that factual allegations or legal conclusions set forth in this Complaint are based on provisions of the Maryland, Virginia or District of Columbia authorized UST management program regulations, those provisions are cited as authority for such allegations or conclusions.

EPA has given Maryland, Virginia and 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

1. Respondent is a “person” as defined in Section 9001 of RCRA, 42 U.S.C. § 6991, 40 C.F.R. § 280.12, COMAR § 26.10.02.04.B(40), 9 VAC 25-580-10 and 20 DCMR § 6899.1.
2. At all times relevant to the violations alleged in this First Amended Complaint, Respondent has been the “owner” and/or “operator,” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, COMAR § 26.10.02.04.B(37) and (39), 9 VAC 25-580-10, and 20 DCMR § 6899.1, of “underground storage tanks” (“USTs”) and “UST systems” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, COMAR § 26.10.02.04.B(64) and (66), 9 VAC 25-580-10 and 20 DCMR § 6899.1, located at number of different facilities in Maryland, Virginia and the District of Columbia, including the nine specific facilities set forth below.

COUNT 1 – 420 Rhode Island Avenue

3. From at least January 1, 2004 through at least the date of this Complaint, Respondent has been the “owner” and/or “operator,” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, of a number of “USTs” and “UST systems,” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, located at the Lowest Price Gas/Quality Auto facility at 420 Rhode Island Avenue, NW, Washington, DC (the “420 Rhode Island Avenue Facility”), including the specific USTs at issue in this Complaint, consisting of the following:

- a. A 10,000-gallon UST (“Tank RI-1”);
- b. A 10,000-gallon UST (“Tank RI-2”);
- c. A 10,000-gallon UST (“Tank RI-3”); and
- d. A 1,000-gallon UST (“Tank RI-4”).

4. At all times relevant to the violations set forth in this Count, Tanks RI-1, RI-2 and RI-3 have been used to store gasoline, which is a petroleum product and is a “regulated substance” as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991 and 20 DCMR § 6899.1.

5. At all times relevant to the violations set forth in this Count, Tank RI-4 has been used to store used motor oil, which is a petroleum product and is a “regulated substance” as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991 and 20 DCMR § 6899.1.

6. At all times relevant to the violations set forth in this Count, Tanks RI-1, RI-2, RI-3 and RI-4 have each been part of a “petroleum UST system” as that term is defined in 20 DCMR § 6899.1.

7. Pursuant to 20 DCMR § 6000, owners and operators of new and existing USTs and UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described in those sections. Pursuant to 20 DCMR § 6100.5, release detection is required unless the UST system is “empty,” which is defined in 20 DCMR § 6100.7(a) as when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters or one inch of residue, or 0.3 percent by weight of the total capacity remains in the system.

8. At all times relevant to the violations set forth in this Count, Tanks RI-1, RI-2, RI-3 and RI-4 have routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus have not been “empty” as defined in 20 DCMR § 6100.7(a).

9. Pursuant to 20 DCMR §§ 6003.2 through 6003.5, tanks which are part of a petroleum UST system must be monitored at least every 30 days for releases using one of the methods listed in 20 DCMR §§ 6008 through 6012, except that in certain circumstances UST systems may be monitored using a combination of inventory control and tank tightness testing in compliance with the requirements of 20 DCMR §§ 6005 through 6007, respectively, and tanks with a capacity of 550 gallons or less may use weekly tank gauging conducted in accordance with 20 DCMR § 6006, respectively.

10. From at least January 1, 2004 through at least the date of this Complaint Tanks RI-1, RI-2 and RI-3 have not been monitored in compliance with any of the methods set forth in 20 DCMR §§ 6005 through 6007 and 6009 through 6012.

11. From at least January 1, 2004 through at least the date of this Complaint Tank RI-4 has not been monitored in compliance with any of the methods set forth in 20 DCMR §§ 6005 through 6012.

12. An automatic tank gauging system (“ATG system”) has been present at the 420 Rhode Island Avenue Facility since some time prior to January 1, 2004. This ATG system, if properly programmed and operated, appears to be capable of performing “in-tank” testing on Tanks RI-1, RI-2 and RI-3 which complies with the requirements of 20 DCMR § 6008. However, the ATG system has not been programmed and operated such that it generates valid tank release detection monitoring results at least every 30 days.

13. At various times between January 1, 2004 and at least the date of this Complaint, Respondent failed to obtain a valid “in-tank” ATG test result for RI-1, RI-2 and RI-3 within 30 days of the last valid ATG test result, including, but not limited to, the period of time between passing ATG results obtained for Tanks RI-1 and RI-2 on July 28, 2004 and October 13, 2004.

14. From at least August 28, 2004 (one month after the passing ATG result on July 28, 2004) to at least October 13, 2004, Respondent violated 20 DCMR §§ 6000 and 6003 by failing to provide a method or methods of tank release detection for the UST systems designated as Tanks RI-1, RI-2 and RI-3 at the 420 Rhode Island Avenue Facility which meet the requirements referenced in such regulations.

15. From at least January 1, 2004 through at least the date of this Complaint, Respondent violated 20 DCMR §§ 6000 and 6003 by failing to provide a method or methods of tank release

detection for the UST system designated as Tank RI-4 at the 420 Rhode Island Avenue Facility which meet the requirements referenced in such regulations.

COUNT 2 – 42382 John Mosby Highway

16. The allegations of Paragraphs 1 through 15 of this Complaint are incorporated herein by reference.

17. From at least January 1, 2004 through at least the date of this Complaint, Respondent has been the “owner” and/or “operator,” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 9 VAC 25-580-10, of a number of “USTs” and “UST systems,” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 9 VAC 25-580-10, located at the Lowest Price Gas/Cronson’s Store facility at 42382 John Mosby Highway, Chantilly, VA (the “John Mosby Highway Facility”), including the specific USTs at issue in this Complaint, consisting of the following:

- a. An 8,000-gallon UST (“Tank 50-2”);
- b. An 8,000-gallon UST (“Tank 50-3”);
- c. A 12,470-gallon UST (“Tank 50-5”); and
- d. A 12,470-gallon UST (“Tank 50-6”).

18. At all times relevant to the violations set forth in this Count, Tanks 50-2 and 50-3 have been used to store gasoline, which is a petroleum product and is a “regulated substance” as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 9 VAC 25-580-10.

19. At all times relevant to the violations set forth in this Count, Tanks 50-5 and 50-6 have been used to store diesel fuel, which is a petroleum product and is a “regulated substance” as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 9 VAC 25-580-10.

20. At all times relevant to the violations set forth in this Count, Tanks 50-2, 50-3, 50-5 and 50-6 have each been part of a “petroleum UST system” as that term is defined in 9 VAC 25-580-10.

21. At all times relevant to the violations set forth in this Count, Tanks 50-5 and 50-6 have been manifolded together.

22. Pursuant to 9 VAC 25-580-130, owners and operators of new and existing USTs and UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described in those sections. Pursuant to 9 VAC 25-580-310.1, release detection is required unless the UST system is “empty,” which is defined in 9 VAC 25-580-310.1, respectively, as when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters or one inch of residue, or 0.3 percent by weight of the total capacity remains in the system.

23. At all times relevant to the violations set forth in this Count, Tanks 50-2, 50-3, 50-5 and 50-6 have routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus have not been “empty” as defined in 9 VAC 25-580-310.1.

24. Pursuant to 9 VAC 25-580-140.1, tanks which are part of a petroleum UST system must be monitored at least every 30 days for releases using one of the methods listed in 9 VAC 25-580-160.4 through 8, except that in certain circumstances UST systems may be monitored using

a combination of inventory control and tank tightness testing in compliance with the requirements of 9 VAC 25-580-160.1 through 3, and tanks with a capacity of 550 gallons or less may use weekly tank gauging conducted in accordance with 9 VAC 25-580-160.2.

25. From at least January 1, 2004 through at least the date of this Complaint, Tanks 50-2, 50-3, 50-5 and 50-6 have not been monitored in compliance with any of the methods set forth in 9 VAC 25-580-160.1 through 3 and 5 through 8.

26. An ATG system has been present at the John Mosby Highway Facility since some time prior to January 1, 2004. However, the ATG system has not been programmed and operated such that it generates valid tank release detection monitoring results at least every 30 days. At various times between January 1, 2004 and at least the date of this Complaint, Respondent failed to obtain a valid "in-tank" ATG test result for Tanks 50-2 and 50-3 within 30 days of the last valid ATG test result, including, but not limited to:

- (1) the period of time between passing ATG results obtained for Tank 50-2 on January 5, 2004 and March 15, 2004; and
- (2) the period of time between passing ATG results obtained for Tank 50-3 on January 5, 2004 and March 8, 2004;

In addition, at least until March 29, 2004, this ATG system was not equipped with software capable of performing valid in-tank testing on manifolded USTs, and/or was not actually performing valid in-tank ATG testing on Tanks 50-5 and 50-6 which complied with the requirements of 9 VAC 25-580-160.4.

27. From at least February 5, 2004 (one month after the passing ATG result on January 5, 2004) until at least March 15, 2004, Respondent violated 9 VAC 25-580-130 and 140.1 by failing to provide a method or methods of tank release detection for the UST system designated as Tank 50-2 at the John Mosby Highway Facility which meet the requirements referenced in such regulations.

28. From at least February 5, 2004 (one month after the passing ATG result on January 5, 2004) until at least March 8, 2004, Respondent violated 9 VAC 25-580-130 and 140.1 by failing to provide a method or methods of tank release detection for the UST system designated as Tank 50-3 at the John Mosby Highway Facility which meet the requirements referenced in such regulations.

29. From at least January 1, 2004 until at least March 29, 2004, Respondent violated 9 VAC 25-580-130 and 140.1 by failing to provide a method or methods of tank release detection for the UST systems designated as Tanks 50-5 and 50-6 at the John Mosby Highway Facility which meet the requirements referenced in such regulations.

COUNT 3 – 12793 Spotswood Trail

30. The allegations of Paragraphs 1 through 29 of this Complaint are incorporated herein by reference.

31. From at least January 1, 2004 through at least the date of this Complaint, Respondent has been the “owner” and/or “operator,” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 9 VAC 25-580-10, of at least two “USTs” and “UST systems,” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 9 VAC 25-580-10, located at the

Lowest Price Gas facility at 12793 Spotswood Trail, Ruckersville, VA (the "Spotswood Trail Facility"), including the specific USTs at issue in this Complaint, consisting of the following:

- a. A 12,000-gallon UST ("Tank 29-1"); and
- b. An 8,000-gallon UST ("Tank 29-2").

32. At all times relevant to the violations set forth in this Count, Tanks 29-1 and 29-2 have been used to store gasoline, which is a petroleum product and is a "regulated substance" as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 9 VAC 25-580-10.

33. At all times relevant to the violations set forth in this Count, Tanks 29-1 and 29-2 have each been part of a "petroleum UST system" as that term is defined in 9 VAC 25-580-10.

34. At all times relevant to the violations set forth in this Count, Tanks 29-1 and 29-2 have routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus have not been "empty" as defined in 9 VAC 25-580-310.1.

35. From at least January 1, 2004 through at least the date of this Complaint, Tanks 29-1 and 29-2 have not been monitored in compliance with any of the methods set forth in 9 VAC 25-580-160.1 through 3 and 5 through 8.

36. An ATG system has been present at the Spotswood Trail Facility since some time prior to January 1, 2004. This ATG system, if properly programmed and operated, appears to be capable of performing "in-tank" testing on Tanks 29-1 and 29-2 which complies with the requirements of 9 VAC 25-580-160.4. However, the ATG system has not been programmed and operated such that it generates valid tank release detection monitoring results at least every 30 days. At various times between January 1, 2004 and at least the date of this Complaint, Respondent failed to

obtain a valid “in-tank” ATG test result for Tanks 29-1 and 29-2 within 30 days of the last valid ATG test result, including, but not limited to, the period of time between passing ATG results obtained for Tanks 29-1 and 29-2 on April 28, 2004 and November 30, 2004.

37. From at least May 28, 2004 until at least November 30, 2004, Respondent violated 9 VAC 25-580-130 and 140.1 by failing to provide a method or methods of tank release detection for the UST systems designated as Tanks 29-1 and 29-2 at the Spotswood Trail Facility which meet the requirements referenced in such regulations.

COUNT 4 – 4123 Ocean Gate Highway

38. The allegations of Paragraphs 1 through 37 of this Complaint are incorporated herein by reference.

39. From at least January 1, 2004 through at least the date of this Complaint, Respondent has been the “owner” and/or “operator,” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(37) and (39), of a number of “USTs” and “UST systems,” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(64) and (66), located at the Lowest Price Gas facility at 4123 Ocean Gate Highway, Trappe, MD (the “Ocean Gate Highway Facility”), including the specific USTs at issue in this Complaint, consisting of the following:

- a. A 10,000-gallon UST (“Tank TR-1”);
- b. A 10,000-gallon UST (“Tank TR-2”); and
- c. A 10,000-gallon UST (“Tank TR-3”).

40. At all times relevant to the violations set forth in this Count, Tanks TR-1, TR-2 and TR-3 have been used to store gasoline, which is a petroleum product and is a “regulated substance” as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(48).

41. At all times relevant to the violations set forth in this Count, Tanks TR-1, TR-2 and TR-3 have each been part of a “petroleum UST system” as that term is defined in COMAR § 26.10.02.04.B(43).

42. Pursuant to COMAR § 26.10.05.01, owners and operators of new and existing USTs and UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described in that section. Pursuant to COMAR § 26.10.10.01.A, release detection is required unless the UST system is “empty,” which is defined in COMAR § 26.10.10.01.A as when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters or one inch of residue, or 0.3 percent by weight of the total capacity remains in the system.

43. At all times relevant to the violations set forth in this Count, Tanks TR-1, TR-2, and TR-3 have routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus have not been “empty” as defined in COMAR § 26.10.10.01.A.

44. Pursuant to COMAR § 26.10.05.02.B, tanks which are part of a petroleum UST system must be monitored at least every 30 days for releases using one of the methods listed in COMAR § 26.10.05.04.E through I, except that in certain circumstances UST systems may be monitored using a combination of inventory control and tank tightness testing in compliance with the

requirements of COMAR § 26.10.05.04.B through D, and tanks with a capacity of 550 gallons or less may use weekly tank gauging conducted in accordance with COMAR § 26.10.05.04.C.

45. COMAR § 26.10.04.05.C(4) requires that owners and operators of UST systems must maintain records of recent compliance with release detection requirements pursuant to COMAR § 26.10.05.06. COMAR § 26.10.05.06.B requires that UST system owners and operators maintain the results of any sampling, testing, or monitoring for at least one year. Pursuant to COMAR § 26.10.04.05.D(1), such records must be kept either at the UST site and immediately available for inspection, or at a readily available alternative site and provided for inspection upon request.

46. From at least January 1, 2004 to at least the date of this Complaint, Tanks TR-1, TR-2, and TR-3 have not been monitored in compliance with any of the methods set forth in COMAR § 26.10.05.04.B through D or F through I.

47. An ATG system was installed at the Ocean Gate Highway Facility at some time prior to January 1, 2004. This ATG system, if properly programmed and operated, appears to be capable of performing "in-tank" testing on Tanks TR-1, TR-2, and TR-3 which complies with the requirements of COMAR § 26.10.05.04.E. However, the ATG system has not been programmed and operated such that it generates valid tank release detection monitoring results at least every 30 days. At various times between January 1, 2004 and at least the date of this Complaint, Respondent failed to obtain a valid "in-tank" ATG test result for Tanks TR-1, TR-2, and TR-3 within 30 days of the last valid ATG test result, including, but not limited to:

- (1) the period of time between passing ATG results obtained for Tank TR-1 on May 13, 2004 and November 23, 2004;
- (2) the period of time between passing ATG results obtained for Tank TR-1 on March 7, 2005 and May 7, 2005;
- (3) the period of time between passing ATG results obtained for Tank TR-2 on March 17, 2004 and May 13, 2004;
- (4) the period of time between passing ATG results obtained for Tank TR-2 on June 17, 2004 and November 23, 2004;
- (5) the period of time between passing ATG results obtained for Tank TR-2 on March 7, 2005 and May 7, 2005;
- (6) the period of time between passing ATG results obtained for Tank TR-3 on February 18, 2004 and April 22, 2004;
- (7) the period of time between passing ATG results obtained for Tank TR-3 on June 17, 2004 and November 23, 2004; and
- (8) the period of time between passing ATG results obtained for Tank TR-3 on March 7, 2005 and May 7, 2005.

48. From at least June 13, 2004 (one month after the passing ATG result on May 13, 2004) until at least November 23, 2004; and from at least April 7, 2005 (one month after the passing ATG result on March 7, 2005) until at least May 7, 2005, Respondent violated COMAR §§ 26.10.05.01 and 26.10.05.02.B by failing to provide a method or methods of tank release

detection for the UST system designated as Tank TR-1 at the Ocean Gate Highway Facility which meet the requirements referenced in such regulations.

49. From at least April 17, 2004 (one month after the passing ATG result on March 17, 2004) until at least May 13, 2004; from July 17, 2004 (one month after the passing ATG result on June 17, 2004) until at least November 23, 2004; and from at least April 7, 2005 (one month after the passing ATG result on March 7, 2005) until at least May 7, 2005, Respondent violated COMAR §§ 26.10.05.01 and 26.10.05.02.B by failing to provide a method or methods of tank release detection for the UST system designated as Tank TR-2 at the Ocean Gate Highway Facility which meet the requirements referenced in such regulations.

50. From at least March 18, 2004 (one month after the passing ATG result on February 18, 2004) until at least April 22, 2004; from July 17, 2004 (one month after the passing ATG result on June 17, 2004) until at least November 23, 2004; and from at least April 7, 2005 (one month after the passing ATG result on March 7, 2005) until at least May 7, 2005, Respondent violated COMAR §§ 26.10.05.01 and 26.10.05.02.B by failing to provide a method or methods of tank release detection for the UST system designated as Tank TR-3 at the Ocean Gate Highway Facility which meet the requirements referenced in such regulations.

COUNT 5 – 6038 Baltimore Avenue

51. The allegations of Paragraphs 1 through 50 of this Complaint are incorporated herein by reference.

52. From at least January 1, 2004 through at least the date of this Complaint, Respondent has been the “owner” and/or “operator,” as those terms are defined in Section 9001 of RCRA, 42

U.S.C. § 6991, and COMAR § 26.10.02.04.B(37) and (39), of a number of “USTs” and “UST systems,” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(64) and (66), located at the Lowest Price Gas facility at 6038 Baltimore Avenue, Hyattsville, MD (the “Baltimore Avenue Facility”), including the specific UST at issue in this Complaint, consisting of a 550-gallon UST (“Tank HY-3”).

53. At all times relevant to the violations set forth in this Count, Tank HY-3 has been used to store used motor oil, which is a petroleum product and is a “regulated substance” as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(48).

54. At all times relevant to the violations set forth in this Count, Tank HY-3 has been part of a “petroleum UST system” as that term is defined in COMAR § 26.10.02.04.B(43).

55. At all times relevant to the violations set forth in this Count, Tank HY-3 has routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus have not been “empty” as defined in COMAR § 26.10.10.01.A.

56. From at least January 1, 2004 to at least the date of this Complaint, Tank HY-3 has not been monitored in compliance with any of the methods set forth in COMAR § 26.10.05.04.B through I.

57. From at least January 1, 2004 until at least the date of this Complaint, Respondent violated COMAR §§ 26.10.05.01 and 26.10.05.02.B by failing to provide a method or methods of tank release detection for the UST system designated as Tank HY-3 at the Baltimore Avenue Facility which meet the requirements referenced in such regulations.

COUNT 6 – 3800 Rhode Island Avenue

58. The allegations of Paragraphs 1 through 57 of this Complaint are incorporated herein by reference.

59. From at least January 1, 2004 through at least the date of this Complaint, Respondent has been the “owner” and/or “operator,” as those terms are defined in Section 9001 and of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(37) and (39), of a number of “USTs” and “UST systems,” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(64) and (66), located at the Lowest Price Gas facility at 3800 Rhode Island Avenue, Brentwood, MD (the “3800 Rhode Island Avenue Facility”), including the specific USTs at issue in this Complaint, consisting of the following:

- a. An 8,000-gallon UST (“Tank BW-1”);
- b. A 6,000-gallon UST (“Tank BW-2”);
- c. A 6,000-gallon UST (“Tank BW-3”); and
- d. A 1,000-gallon UST (“Tank BW-4”).

60. At all times relevant to the violations set forth in this Count, Tanks BW-1, BW-2 and BW-3 have been used to store gasoline, which is a petroleum product and is a “regulated substance” as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(48).

61. At all times relevant to the violations set forth in this Count, Tank BW-4 has been used to store used motor oil, which is a petroleum product and is a “regulated substance” as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(48).

62. At all times relevant to the violations set forth in this Count, Tanks BW-1, BW-2, BW-3 and BW-4 have each been part of a “petroleum UST system” as that term is defined in COMAR § 26.10.02.04.B(43).

63. At all times relevant to the violations set forth in this Count, Tanks BW-1, BW-2, BW-3 and BW-4 have routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus have not been “empty” as defined in COMAR § 26.10.10.01.A.

64. From at least January 1, 2004 to at least the date of this Complaint, Tanks BW-1, BW-2, and BW-3 have not been monitored in compliance with any of the methods set forth in COMAR § 26.10.05.04.B through D or F through I.

65. From at least January 1, 2004 to at least the date of this Complaint, Tank BW-4 has not been monitored in compliance with any of the methods set forth in COMAR § 26.10.05.04.B through I.

66. An ATG system was installed at the 3800 Rhode Island Avenue Facility at some time prior to January 1, 2004. This ATG system, if properly programmed and operated, appears to be capable of performing “in-tank” testing on Tanks BW-1, BW-2, and BW-3 which complies with the requirements of COMAR § 26.10.05.04.E. However, the ATG system has not been programmed and operated such that it generates valid tank release detection monitoring results at least every 30 days. At various times between January 1, 2004 and at least the date of this Complaint, Respondent failed to obtain a valid “in-tank” ATG test result for Tanks BW-1, BW-2, and BW-3 within 30 days of the last valid ATG test result, including, but not limited to:

- (1) the period of time from January 1, 2004 until passing ATG results were obtained for Tank BW-1 on February 12, 2004;
- (2) the period of time between passing ATG results obtained for Tank BW-1 on May 4, 2004 and July 30, 2004;
- (3) the period of time from January 1, 2004 until passing ATG results were obtained for Tank BW-2 on March 28, 2004;
- (4) the period of time between passing ATG results obtained for Tank BW-2 on December 6, 2004 and February 28, 2005;
- (5) the period of time between passing ATG results obtained for Tank BW-2 on November 29, 2005 and February 8, 2006;
- (6) the period of time from January 1, 2004 until passing ATG results were obtained for Tank BW-3 on April 27, 2004;
- (7) the period of time between passing ATG results obtained for Tank BW-3 on December 6, 2004 and February 28, 2005; and
- (8) the period of time between passing ATG results obtained for Tank BW-3 on November 29, 2005 and February 8, 2006.

67. From at least January 1, 2004 until February 12, 2004; and from June 4, 2004 (one month after the passing ATG result on May 4, 2004) until July 30, 2004, Respondent violated COMAR §§ 26.10.05.01 and 26.10.05.02.B by failing to provide a method or methods of tank release detection for the UST system designated as Tank BW-1 at the 3800 Rhode Island Avenue Facility which meet the requirements referenced in such regulations.

68. From at least January 1, 2004 until March 28, 2004; from January 6, 2005 (one month after the passing ATG result on December 6, 2004) until February 28, 2005; and from December 29, 2005 (one month after the passing ATG result on November 29, 2005) until February 8, 2006, Respondent violated COMAR §§ 26.10.05.01 and 26.10.05.02.B by failing to provide a method or methods of tank release detection for the UST system designated as Tank BW-2 at the 3800 Rhode Island Avenue Facility which meet the requirements referenced in such regulations.

69. From at least January 1, 2004 until April 27, 2004; from January 6, 2005 (one month after the passing ATG result on December 6, 2004) until February 28, 2005; and from December 29, 2005 (one month after the passing ATG result on November 29, 2005) until February 8, 2006, Respondent violated COMAR §§ 26.10.05.01 and 26.10.05.02.B by failing to provide a method or methods of tank release detection for the UST system designated as Tank BW-3 at the 3800 Rhode Island Avenue Facility which meet the requirements referenced in such regulations.

70. From at least January 1, 2004 until at least the date of this Complaint, Respondent violated COMAR §§ 26.10.05.01 and 26.10.05.02.B by failing to provide a method or methods of tank release detection for the UST system designated as Tank BW-4 at the 3800 Rhode Island Avenue Facility which meet the requirements referenced in such regulations.

COUNT 7 – 1576 Wisconsin Avenue

71. The allegations of Paragraphs 1 through 70 of this Complaint are incorporated herein by reference.

72. From at least January 1, 2004 through at least the date of this Complaint, Respondent has been the “owner” and/or “operator,” as those terms are defined in Section 9001 of RCRA, 42

U.S.C. § 6991, and 20 DCMR § 6899.1, of a number of “USTs” and “UST systems,” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, located at the Lowest Price Gas/Quality Auto facility at 1576 Wisconsin Avenue, NW, Washington, DC (the “Wisconsin Avenue Facility”), including the specific USTs at issue in this Complaint, consisting of the following:

- a. An 8,000-gallon UST (“Tank GT-1”);
- b. An 8,000-gallon UST (“Tank GT-2”);
- c. A 10,000-gallon UST (“Tank GT-3”); and
- d. A 550-gallon UST (“Tank GT-4”).

73. At all times relevant to the violations set forth in this Count, Tanks GT-1, GT-2 and GT-3 have been used to store gasoline, which is a petroleum product and is a “regulated substance” as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991 and 20 DCMR § 6899.1.

74. At all times relevant to the violations set forth in this Count, Tank GT-4 has been used to store used motor oil, which is a petroleum product and is a “regulated substance” as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991 and 20 DCMR § 6899.1.

75. At all times relevant to the violations set forth in this Count, Tanks GT-1, GT-2, GT-3 and GT-4 have each been part of a “petroleum UST system” as that term is defined in 20 DCMR § 6899.1.

76. At all times relevant to the violations set forth in this Count, Tanks GT-1, GT-2, GT-3 and GT-4 have routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus have not been “empty” as defined in 20 DCMR § 6100.7(a).

77. From at least January 1, 2004 through at least the date of this Complaint Tanks GT-1, GT-2 and GT-3 have not been monitored in compliance with any of the methods set forth in 20 DCMR §§ 6005 through 6007 and 6009 through 6012.

78. From at least January 1, 2004 through at least the date of this Complaint Tank GT-4 has not been monitored in compliance with any of the methods set forth in 20 DCMR §§ 6005 through 6012.

79. An ATG system has been present at the Wisconsin Avenue Facility since some time prior to January 1, 2004. This ATG system, if properly programmed and operated, appears to be capable of performing “in-tank” testing on Tanks GT-1, GT-2 and GT-3 which complies with the requirements of 20 DCMR § 6008. However, the ATG system has not been programmed and operated such that it generates valid tank release detection monitoring results at least every 30 days. At various times between January 1, 2004 and at least the date of this Complaint, Respondent failed to obtain a valid “in-tank” ATG test result for Tanks GT-1, GT-2 and GT-3 within 30 days of the last valid ATG test result, including, but not limited to:

- (1) the period of time from January 1, 2004 until a passing result was obtained for Tanks GT-1, GT-2 and GT-3 on February 23, 2004;
 - (2) the period of time between passing ATG results obtained for Tanks GT-1, GT-2 and GT-3 on April 15, 2004 and June 14, 2004;
 - (3) the period of time between passing ATG results obtained for Tank GT-1 on March 19, 2005 and May 8, 2005; and
-

- (4) the period of time between passing ATG results obtained for Tanks GT-2 and GT-3 on March 20, 2005 and May 8, 2005.

80. From at least January 1, 2004 until February 23, 2004; from May 15, 2004 (one month after the passing ATG result on April 15, 2004) until June 14, 2004; and from April 19, 2005 (one month after the passing ATG result on March 19, 2005) until May 8, 2005, Respondent violated 20 DCMR §§ 6000 and 6003 by failing to provide a method or methods of tank release detection for the UST system designated as Tank GT-1 at the Wisconsin Avenue Facility which meet the requirements referenced in such regulations.

81. From at least January 1, 2004 until February 23, 2004; from May 15, 2004 (one month after the passing ATG result on April 15, 2004) until June 14, 2004; and from April 20, 2005 (one month after the passing ATG result on March 20, 2005) until May 8, 2005, Respondent violated 20 DCMR §§ 6000 and 6003 by failing to provide a method or methods of tank release detection for the UST systems designated as Tanks GT-2 and GT-3 at the Wisconsin Avenue Facility which meet the requirements referenced in such regulations.

82. From at least January 1, 2004 through at least the date of this Complaint, Respondent violated 20 DCMR §§ 6000 and 6003 by failing to provide a method or methods of tank release detection for the UST system designated as Tank GT-4 at the Wisconsin Avenue Facility which meet the requirements referenced in such regulations.

COUNT 8 – 15501 New Hampshire Avenue

83. The allegations of Paragraphs 1 through 82 of this Complaint are incorporated herein by reference.

84. From at least January 1, 2004 through at least the date of this Complaint, Respondent has been the “owner” and/or “operator,” as those terms are defined in Section 9001 and of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(37) and (39), of a number of “USTs” and “UST systems,” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(64) and (66), located at the Lowest Price Gas facility at 15501 New Hampshire Avenue, Silver Spring, MD (the “15501 New Hampshire Avenue Facility”), including the specific USTs at issue in this Complaint, consisting of the following:

- a. A 10,000-gallon UST (“Tank NH-1”);
- b. A 10,000-gallon UST (“Tank NH-2”); and
3. A 10,000-gallon UST (“Tank NH-3”).

85. At all times relevant to the violations set forth in this Count, Tanks NH-1, NH-2 and NH-3 have been used to store gasoline, which is a petroleum product and is a “regulated substance” as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(48).

86. At all times relevant to the violations set forth in this Count, Tanks NH-1, NH-2 and NH-3 have each been part of a “petroleum UST system” as that term is defined in COMAR § 26.10.02.04.B(43).

87. At all times relevant to the violations set forth in this Count, Tanks NH-1, NH-2, and NH-3 have routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus have not been “empty” as defined in COMAR § 26.10.10.01.A.

88. From at least January 1, 2004 to at least the date of this Complaint, Tanks NH-1, NH-2, and NH-3 have not been monitored in compliance with any of the methods set forth in COMAR § 26.10.05.04.B through D or F through I.

89. An ATG system was installed at the 15501 New Hampshire Avenue Facility at some time prior to January 1, 2004. This ATG system, if properly programmed and operated, appears to be capable of performing “in-tank” testing on Tanks NH-1, NH-2, and NH-3 which complies with the requirements of COMAR § 26.10.05.04.E. However, the ATG system has not been programmed and operated such that it generates valid tank release detection monitoring results at least every 30 days. At various times between January 1, 2004 and at least the date of this Complaint, Respondent failed to obtain a valid “in-tank” ATG test result for Tanks NH-1, NH-2, and NH-3 within 30 days of the last valid ATG test result, including, but not limited to:

- (1) the period of time from January 1, 2004 until passing ATG results were obtained for Tanks NH-1 and NH-2 on March 24, 2004;
- (2) the period of time between passing ATG results obtained for Tanks NH-1 and NH-2 on May 4, 2004 and October 22, 2004;
- (3) the period of time between passing ATG results obtained for Tanks NH-1 and NH-2 on September 30, 2005 and November 21, 2005;
- (4) the period of time between passing ATG results obtained for Tanks NH-1 and NH-2 on November 21, 2005 and February 11, 2006;
- (5) the period of time between passing ATG results obtained for Tank NH-3 on July 7, 2005 and September 30, 2005; and

- (6) the period of time between passing ATG results obtained for Tank NH-3 on September 30, 2005 and February 11, 2006.

90. From at least January 1, 2004 until March 24, 2004; from June 4, 2004 (one month after the passing ATG result on May 4, 2004) until October 22, 2004; from October 30, 2005 (one month after the passing ATG result on September 30, 2005) until November 21, 2005; and from December 21, 2005 (one month after the passing ATG result on November 21, 2005) until February 11, 2006, Respondent violated COMAR §§ 26.10.05.01 and 26.10.05.02.B by failing to provide a method or methods of tank release detection for the UST systems designated as Tanks NH-1 and NH-2 at the 15501 New Hampshire Avenue Facility which meet the requirements referenced in such regulations.

91. From August 7, 2005 (one month after the passing ATG result on July 7, 2005) until September 30, 2005; and from October 30, 2005 (one month after the passing ATG result on September 30, 2005) until February 11, 2006, Respondent violated COMAR §§ 26.10.05.01 and 26.10.05.02.B by failing to provide a method or methods of tank release detection for the UST system designated as Tank NH-3 at the 15501 New Hampshire Avenue Facility which meet the requirements referenced in such regulations.

COUNT 9 – 15501 New Hampshire Avenue

92. The allegations of Paragraphs 1 through 93 of this Complaint are incorporated herein by reference.

93. Pursuant to COMAR § 26.10.08.01, owners and operators of UST systems must notify the Maryland Department of the Environment (“MDE”) within two (2) hours, whenever there is a

suspected release from an UST system, including, in relevant part, when monitoring results from a release detection method required under COMAR § 26.10.05.02 and .03 indicate that a release may have occurred, unless the monitoring device is found to be defective, and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result.

94. Pursuant to COMAR § 26.10.08.03, unless correction action is initiated in accordance with COMAR § 26.10.09, owners and operators of UST systems must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under COMAR § 26.10.08.01 within 72 hours or another reasonable time as specified by MDE, using either the steps specified in COMAR § 26.10.08.03 or another procedure approved by MDE.

95. On February 25, 2004, Respondent learned of a failing ATG result for Tank NH-3, indicating a suspected release from that UST. The ATG was not found to be defective and immediately repaired, recalibrated, or replaced, nor was additional monitoring performed to compare to the initial failed result.

96. Respondent did not notify MDE within two hours after learning of the failed ATG result described in Paragraph 95, above, nor did Respondent notify MDE of such suspected release at any subsequent time.

97. Respondent neither initiated corrective action nor initiated an investigation pursuant to COMAR § 26.10.08.03 within 72 hours after learning of the failed ATG result described in Paragraph 95, above, nor did Respondent initiate such measures at any subsequent time. MDE did not at any time approve an alternative deadline for initiating corrective action or an investigation, nor did MDE approve an alternative method of investigation.

98. Respondent violated COMAR § 26.10.08.01 by failing to notify MDE of monitoring results on February 25, 2004, indicating that a release may have occurred from Tank NH-3 at the 15501 New Hampshire Avenue Facility.

99. Respondent violated COMAR § 26.10.08.03 by failing to either initiate corrective action or an investigation of monitoring results on February 25, 2004, indicating that a release may have occurred from Tank NH-3 at the 15501 New Hampshire Avenue Facility.

COUNT 10 – 5608 Buckeystown Pike

100. The allegations of Paragraphs 1 through 99 of this Complaint are incorporated herein by reference.

101. From at least January 1, 2004 through at least the date of this Complaint, Respondent has been the “owner” and/or “operator,” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(37) and (39), of a number of “USTs” and “UST systems,” as those terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(64) and (66), located at the Lowest Price Gas facility at 5608 Buckeystown Pike, Frederick, MD (the “Buckeystown Pike Facility”), including the specific USTs at issue in this Complaint, consisting of the following:

- a. A 10,000-gallon UST (“Tank FR-1”);
- b. A 10,000-gallon UST (“Tank FR-2”);
- c. A 10,000-gallon UST (“Tank FR-3”); and
- d. A 550-gallon UST (“Tank FR-4”).

102. At all times relevant to the violations set forth in this Count, Tanks FR-1, FR-2 and FR-3 have been used to store gasoline, which is a petroleum product and is a “regulated substance” as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(48).

103. At all times relevant to the violations set forth in this Count, Tank FR-4 has been used to store used motor oil, which is a petroleum product and is a “regulated substance” as that term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR § 26.10.02.04.B(48).

104. At all times relevant to the violations set forth in this Count, Tanks FR-1, FR-2, FR-3 and FR-4 have each been part of a “petroleum UST system” as that term is defined in COMAR § 26.10.02.04.B(43).

105. At all times relevant to the violations set forth in this Count, Tanks FR-1, FR-2, FR-3 and FR-4 have routinely contained greater than 1 inch of regulated substances and 0.3 percent by weight of the total capacity, and thus have not been “empty” as defined in COMAR § 26.10.10.01.A.

106. From at least January 1, 2004 to at least the date of this Complaint, Tanks FR-1, FR-2 and FR-3 have not been monitored in compliance with any of the methods set forth in COMAR § 26.10.05.04.B through D or F through I.

107. From at least January 1, 2004 to at least the date of this Complaint, Tank FR-4 has not been monitored in compliance with any of the methods set forth in COMAR § 26.10.05.04.B through I.

108. An ATG system was installed at the Buckeystown Pike Facility at some time prior to January 1, 2004. This ATG system, if properly programmed and operated, appears to be capable of performing "in-tank" testing on Tanks FR-1, FR-2 and FR-3 which complies with the requirements of COMAR § 26.10.05.04.E. However, the ATG system has not been programmed and operated such that it generates valid tank release detection monitoring results at least every 30 days. At various times between January 1, 2004 and at least the date of this Complaint, Respondent failed to obtain a valid "in-tank" ATG test result for Tanks FR-1, FR-2 and FR-3 within 30 days of the last valid ATG test result, including, but not limited to:

- (1) the period of time between passing ATG results obtained for Tank FR-1 on January 4, 2004 and March 25, 2004;
- (2) the period of time between passing ATG results obtained for Tanks FR-2 and FR-3 on January 4, 2004 and March 21, 2004; and
- (3) the period of time between passing ATG results obtained for Tanks FR-1, FR-2 and FR-3 on June 7, 2005 and December 7, 2005.

109. From at least February 4, 2004 (one month after the passing ATG result on January 4, 2004) until at least March 25, 2004; and from July 7, 2005 (one month after the passing ATG result on June 7, 2005) until at least December 7, 2005, Respondent violated COMAR §§ 26.10.05.01 and 26.10.05.02.B by failing to provide a method or methods of tank release detection for the UST system designated as Tank FR-1 at the Buckeystown Pike Facility which meet the requirements referenced in such regulations.

110. From at least February 4, 2004 (one month after the passing ATG result on January 4, 2004) until at least March 21, 2004; and from July 7, 2005 (one month after the passing ATG result on June 7, 2005) until at least December 7, 2005, Respondent violated COMAR §§ 26.10.05.01 and 26.10.05.02.B by failing to provide a method or methods of tank release detection for the UST systems designated as Tanks FR-2 and FR-3 at the Buckeystown Pike Facility which meet the requirements referenced in such regulations.

111. From at least January 1, 2004 until at least the date of this Complaint, Respondent violated COMAR §§ 26.10.05.01 and 26.10.05.02.B by failing to provide a method or methods of tank release detection for the UST system designated as Tank FR-4 at the Buckeystown Pike Facility which meet the requirements referenced in such regulations.

III. COMPLIANCE ORDER

A. Within fifteen (15) days after the effective date of this Compliance Order, Respondent must ensure that each UST and UST system identified in the Findings of Fact and Conclusions of Law, above, is in compliance with the tank release detection requirements of 20 DCMR §§ 6000 and 6003, 9 VAC 25-580-130 and 140.1 and COMAR §§ 26.10.05.01 and 26.10.05.02.B, as applicable. As an alternative, for any of these UST systems Respondent may ensure, within fifteen (15) days after the effective date of this Compliance Order, that such UST is taken temporarily out of service and all regulated substances removed so that the UST is “empty” as defined in 20 DCMR § 6100.7(a), 9 VAC 25-580-310.1 and COMAR § 26.10.10.01.A, as applicable, until such time as methods of tank and/or line release detection are performed.

B. If, at any time after the effective date of this Compliance Order, Respondent learns of a tank or line monitoring result indicating that a release may have occurred at any of Respondent's Maryland facilities, including, but not limited to, a failing ATG result, Respondent shall notify the Maryland Department of the Environment ("MDE") within two (2) hours, unless the monitoring device is found to be defective, and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result.

C. If, at any time after the effective date of this Compliance Order, Respondent learns of a tank or line monitoring result indicating that a release may have occurred at any of Respondent's District of Columbia or Virginia facilities, including, but not limited to, a failing ATG result, Respondent shall notify the District of Columbia Department of the Environment ("DCDOE") or the Virginia Department of Environmental Quality ("VADEQ"), respectively, within twenty-four (24) hours, unless the monitoring device is found to be defective, and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result.

D. If, at any time after the effective date of this Compliance Order, Respondent learns of a tank or line monitoring result indicating that a release may have occurred at any of Respondent's Maryland facilities, including, but not limited to, a failing ATG result, Respondent shall either immediately initiate correction action or shall immediately investigate and confirm the suspected release within seventy-two (72) hours or another reasonable time as specified by MDE, using either the steps specified in COMAR § 26.10.08.03 or another procedure approved by MDE.

E. If, at any time after the effective date of this Compliance Order, Respondent learns of a tank or line monitoring result indicating that a release may have occurred at any of Respondent's District of Columbia facilities, including, but not limited to, a failing ATG result, Respondent shall either immediately initiate correction action or shall immediately investigate and confirm the suspected release within seven (7) days or another time as specified by DCDOE, using the steps specified in 20 DCMR § 6203.

F. If, at any time after the effective date of this Compliance Order, Respondent learns of a tank or line monitoring result indicating that a release may have occurred at any of Respondent's Virginia facilities, including, but not limited to, a failing ATG result, Respondent shall either immediately initiate correction action or shall immediately investigate and confirm the suspected release within seven (7) days or another time as specified by VADEQ, using either the steps specified in 9 VAC 25-580-210.

G. Within sixty (60) days after the effective date of this Compliance Order, Respondent shall submit to EPA a Report detailing all measures taken to comply with Paragraphs A through C of this Compliance Order and providing written documentation that Respondent has corrected all of the violations set forth in this Complaint, including, but not limited to:

- (1) A description of and documentation of the method of tank release detection for each UST alleged herein to be in violation of the tank release detection requirements, or documentation of the temporary and/or permanent closure of a given UST.

- (2) A description of and documentation of every instance in which Respondent learns of a tank or line monitoring result indicating that a release may have occurred at any of Respondent's facilities, and a description of and documentation of all measures taken in response to each such instance, including a description of and documentation of Respondent's reporting of such incident to MDE and investigation of the suspected release, or, in the alternative, a description of and documentation of measures taken by Respondent to immediately repair, recalibrate, or replace a defective monitoring device and any additional monitoring which does not confirm the initial result.
- (3) Where the applicable regulations allow more than one option for compliance, such Report shall clearly indicate the regulatory citation for each option which Respondent claims is being utilized at each facility.
- (4) Documentation of compliance as required in such report shall be provided for the period from May 1, 2006 to the date of Respondent's report.

H. Any notice, report, certification, data presentation, or other document submitted by 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 corporate officer of Respondent, as provided in 40 C.F.R. § 270.11(a). The certification of the responsible corporate officer 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: _____

I. 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, or by overnight delivery with signature verification, to:

Marie Owens
 RCRA Compliance and Enforcement Branch
 Mail Code 3WC31
 United States Environmental Protection Agency
 Region III
 1650 Arch Street
 Philadelphia, PA 19103-2029

and

Benjamin D. Fields
Senior Assistant Regional Counsel
Mail Code 3RC30
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

- (b) One copy of all documents submitted to EPA shall be sent by regular mail to each of the following state contacts:

Ms. Sharon Hamilton
Environmental Specialist
DC Department of the Environment
51 N Street, NE
Washington, DC 20002

Mr. Russ Ellison
Virginia Department of Environmental Quality
Office of Spill Response & Remediation
629 E Main Street
P.O. Box 10009
Richmond, VA 23240-0009

Mr. Herb Meade
Maryland Department of the Environment
Oil Control Program
Montgomery Park Business Center
1800 Washington Blvd.
Baltimore, MD 21230

J. The term "days" as used herein shall mean calendar days unless specified otherwise.

K. Respondent is hereby notified that failure to comply with any of the terms of this Compliance Order may subject Respondent to the imposition of a civil penalty of up to \$32,500

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. 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 promulgated under Section 9003 of RCRA, 42 U.S.C. § 6991b, or any requirement or standard of a State program authorized pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, shall be liable for a civil penalty not to exceed \$10,000 for each tank for each day of violation. Pursuant to the DCIA and the subsequent Civil Monetary Penalty Inflation Adjustment Rule, 61 *Fed. Reg.* 69360 (December 31, 1996), codified at 40 C.F.R. Part 19, violations which occur subsequent to January 30, 1997 are subject to a new statutory maximum penalty of ten percent greater than the prior statutory maximum, or \$11,000 per violation per day.

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).

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. In developing the proposed penalty, Complainant 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”), and the “Modifications to EPA’s 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 September 21, 2004 (“Penalty Policy Inflation Modification”), 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 consider, among other factors, facts or circumstances unknown to Complainant at the time of issuance of the Complaint that become known after the Complaint is issued. In particular, EPA will consider, if raised, Respondent’s ability to pay as a factor in adjusting the civil penalty. The burden of raising the issue of inability to pay rests with Respondent.

Violations

Pursuant to Section 9006(d)(2) of RCRA, 42 U.S.C. § 6991e(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 does not constitute a “demand” as that term is defined in the Equal Access to Justice Act, 28 U.S.C. § 2412. Pursuant to 40 C.F.R. § 22.14(a)(4)(ii), an explanation of the number of and severity of violations is given below.

COUNT 1 – 420 Rhode Island Avenue

Failure to Provide Tank Release Detection

Respondent failed to provide tank release detection for Tanks RI-1, RI-2 and RI-3 from at least August 28, 2004 to at least October 13, 2004. In addition, Respondent failed to provide

tank release detection for Tank RI-4 from at least January 1, 2004 to at least the effective date of this Complaint.

Tank release detection is one of the most important elements of the UST regulations because it ensures that regulated substances are not released into the environment in large quantities. Under the UST Penalty Guidance the failure to conduct tank release detection in a proper manner is generally considered a “major” deviation from the statutory and regulatory program with a “major” potential for harm to the environment and/or the regulatory program. In this instance there is no reason to deviate from that assessment.

Complainant also expects to add significant upward penalty adjustments based on Respondent’s lack of cooperation with EPA, Respondent’s high level of culpability and Respondent’s extensive history of similar violations at this facility and numerous other facilities. In addition, Complainant expects to adjust the base penalty by a multiplier to account for relative sensitivity of environment affected by the violation.

Furthermore, a penalty component will be added to reflect the economic benefit gained by Respondent by failing to comply with the tank release detection requirements. Given Respondent inability to successfully perform any method of tank release detection for Tank RI-4, it is likely that Respondent can come into compliance only by removing regulated substances from such UST, completing a regulatory closure, and replacing such UST with an aboveground tank or some other method for storing used motor oil. Respondent has thus gained an economic benefit by delaying the costs of implementing these measures.

COUNT 2 – 42382 John Mosby Highway**Failure to Provide Tank Release Detection**

Respondent failed to provide tank release detection for Tank 50-2 from at least February 5, 2004 until at least March 15, 2004; failed to provide tank release detection for Tank 50-3 from at least February 5, 2004 until at least March 8, 2004; and failed to provide tank release detection for Tanks 50-5 and 50-6 from at least January 1, 2004 until at least March 29, 2004.

As noted above, the failure to conduct tank release detection in a proper manner is generally considered a “major” deviation from the statutory and regulatory program with a “major” potential for harm to the environment and/or the regulatory program. In this instance there is no reason to deviate from that assessment.

Complainant also expects to add significant upward penalty adjustments based on Respondent’s lack of cooperation with EPA, Respondent’s high level of culpability and Respondent’s extensive history of similar violations at this facility and numerous other facilities. In addition, Complainant expects to adjust the base penalty by a multiplier to account for relative sensitivity of environment affected by the violation.

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

COUNT 3 – 12793 Spotswood Trail**Failure to Provide Tank Release Detection**

Respondent failed to provide tank release detection for Tanks 29-1 and 29-2 from at least May 28, 2004 until at least November 30, 2004.

As noted above, the failure to conduct tank release detection in a proper manner is generally considered a “major” deviation from the statutory and regulatory program with a “major” potential for harm to the environment and/or the regulatory program. In this instance there is no reason to deviate from that assessment.

Complainant also expects to add significant upward penalty adjustments based on Respondent’s lack of cooperation with EPA, Respondent’s high level of culpability and Respondent’s extensive history of similar violations at this facility and numerous other facilities. In addition, Complainant expects to adjust the base penalty by a multiplier to account for relative sensitivity of environment affected by the violation.

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

COUNT 4 – 4123 Ocean Gate Highway

Failure to Provide Tank Release Detection

Respondent failed to provide tank release detection for Tank TR-1 from at least June 13, 2004 until at least November 23, 2004; and from at least April 7, 2005 until at least May 7, 2005. Respondent failed to provide tank release detection for Tank TR-2 from at least April 17, 2004 until at least May 13, 2004; from July 17, 2004 until at least November 23, 2004; and from at least April 7, 2005 until at least May 7, 2005. Respondent failed to provide tank release detection for Tank TR-3 from at least March 18, 2004 until at least April 22, 2004; from July 17, 2004 until at least November 23, 2004; and from at least April 7, 2005 until at least May 7, 2005.

As noted above, the failure to conduct tank release detection in a proper manner is generally considered a “major” deviation from the statutory and regulatory program with a “major” potential for harm to the environment and/or the regulatory program. In this instance there is no reason to deviate from that assessment.

Complainant also expects to add significant upward penalty adjustments based on Respondent’s lack of cooperation with EPA, Respondent’s high level of culpability and Respondent’s extensive history of similar violations at this facility and numerous other facilities. In addition, Complainant expects to adjust the base penalty by a multiplier to account for relative sensitivity of environment affected by the violation.

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

COUNT 5 – 6038 Baltimore Avenue

Failure to Provide Tank Release Detection

Respondent failed to provide tank release detection for Tank HY-3 from at least January 1, 2004 to at least the effective date of this Complaint.

As noted above, the failure to conduct tank release detection in a proper manner is generally considered a “major” deviation from the statutory and regulatory program with a “major” potential for harm to the environment and/or the regulatory program. In this instance there is no reason to deviate from that assessment.

Complainant also expects to add significant upward penalty adjustments based on Respondent’s lack of cooperation with EPA, Respondent’s high level of culpability and

Respondent's extensive history of similar violations at this facility and numerous other facilities. In addition, Complainant expects to adjust the base penalty by a multiplier to account for relative sensitivity of environment affected by the violation.

Furthermore, a penalty component will be added to reflect any economic benefit gained by Respondent by failing to comply with the tank release detection requirements. Given Respondent inability to successfully perform any method of tank release detection for Tank HY-3, it is likely that Respondent can come into compliance only by removing regulated substances from such UST, completing a regulatory closure, and replacing such UST with an aboveground tank or some other method for storing used motor oil. Respondent has thus gained an economic benefit by delaying the costs of implementing these measures.

COUNT 6 – 3800 Rhode Island Avenue

Failure to Provide Tank Release Detection

Respondent failed to provide tank release detection for Tank BW-1 from at least January 1, 2004 until February 12, 2004; and from June 4, 2004 until July 30, 2004. Respondent failed to provide tank release detection for Tank BW-2 from at least January 1, 2004 until March 28, 2004; from January 6, 2005 until February 28, 2005; and from December 29, 2005 until February 8, 2006. Respondent failed to provide tank release detection for Tank BW-3 from at least January 1, 2004 until April 27, 2004; from January 6, 2005 until February 28, 2005; and from December 29, 2005 until February 8, 2006. In addition, Respondent failed to provide tank release detection for Tank BW-4 from at least January 1, 2004 to at least the effective date of this Complaint.

As noted above, the failure to conduct tank release detection in a proper manner is generally considered a “major” deviation from the statutory and regulatory program with a “major” potential for harm to the environment and/or the regulatory program. In this instance there is no reason to deviate from that assessment.

Complainant also expects to add significant upward penalty adjustments based on Respondent’s lack of cooperation with EPA, Respondent’s high level of culpability and Respondent’s extensive history of similar violations at this facility and numerous other facilities. In addition, Complainant expects to adjust the base penalty by a multiplier to account for relative sensitivity of environment affected by the violation.

Furthermore, a penalty component will be added to reflect the economic benefit gained by Respondent by failing to comply with the tank release detection requirements. Given Respondent inability to successfully perform any method of tank release detection for Tank BW-4, it is likely that Respondent can come into compliance only by removing regulated substances from such UST, completing a regulatory closure, and replacing such UST with an aboveground tank or some other method for storing used motor oil. Respondent has thus gained an economic benefit by delaying the costs of implementing these measures.

COUNT 7 – 1576 Wisconsin Avenue

Failure to Provide Tank Release Detection

Respondent failed to provide tank release detection for Tank GT-1 from at least January 1, 2004 until February 23, 2004; from May 15, 2004 until June 14, 2004; and from April 19, 2005 until May 8, 2005. Respondent failed to provide tank release detection for Tanks GT-2 and

GT-3 from at least January 1, 2004 until February 23, 2004; from May 15, 2004 until June 14, 2004; and from April 20, 2005 until May 8, 2005. In addition, Respondent failed to provide tank release detection for Tank GT-4 from at least January 1, 2004 to at least the effective date of this Complaint.

As noted above, the failure to conduct tank release detection in a proper manner is generally considered a “major” deviation from the statutory and regulatory program with a “major” potential for harm to the environment and/or the regulatory program. In this instance there is no reason to deviate from that assessment.

Complainant also expects to add significant upward penalty adjustments based on Respondent’s lack of cooperation with EPA, Respondent’s high level of culpability and Respondent’s extensive history of similar violations at this facility and numerous other facilities. In addition, Complainant expects to adjust the base penalty by a multiplier to account for relative sensitivity of environment affected by the violation.

Furthermore, a penalty component will be added to reflect the economic benefit gained by Respondent by failing to comply with the tank release detection requirements. Given Respondent inability to successfully perform any method of tank release detection for Tank GT-4, it is likely that Respondent can come into compliance only by removing regulated substances from such UST, completing a regulatory closure, and replacing such UST with an aboveground tank or some other method for storing used motor oil. Respondent has thus gained an economic benefit by delaying the costs of implementing these measures.

COUNT 8 – 15501 New Hampshire Avenue**Failure to Provide Tank Release Detection**

Respondent failed to provide tank release detection for Tanks NH-1 and NH-2 from at least January 1, 2004 until March 24, 2004; from June 4, 2004 until October 22, 2004; from October 30, 2005 until November 21, 2005; and from December 21, 2005 until February 11, 2006. Respondent failed to provide tank release detection for Tank NH-3 from at least August 7, 2005 until September 30, 2005; and from October 30, 2005 until February 11, 2006.

As noted above, the failure to conduct tank release detection in a proper manner is generally considered a “major” deviation from the statutory and regulatory program with a “major” potential for harm to the environment and/or the regulatory program. In this instance there is no reason to deviate from that assessment.

Complainant also expects to add significant upward penalty adjustments based on Respondent’s lack of cooperation with EPA, Respondent’s high level of culpability and Respondent’s extensive history of similar violations at this facility and numerous other facilities. In addition, Complainant expects to adjust the base penalty by a multiplier to account for relative sensitivity of environment affected by the violation.

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

COUNT 9 – 15501 New Hampshire Avenue**Failure to Notify State Agency and Investigate Suspected Release**

On at least February 25, 2004, Respondent learned of a failing ATG result indicating that a release may have occurred from Tank NH-3. Respondent failed to notify MDE of this suspected release, and failed to investigate such suspected release.

The requirement to notify the implementing agency of a suspected release is a critical element of the regulatory program, ensuring that the implementing agency has the opportunity to investigate any releases and/or oversee the timeliness and appropriateness of an investigation undertaken by the owner/operator of the USTs. The requirement to investigate such release is, if anything, even more vital, because release detection is of no value at all unless timely action is taken to investigate suspected releases and, if the investigation shows a release, initiate corrective action. Under the UST Penalty Guidance, the failure to notify the implementing agency of a potential release and the failure to investigate a suspected release are both generally considered major deviations from the statutory and regulatory program with major potentials for harm to the environment and/or the regulatory program. There does not at this time appear to be any reason to deviate from that assessment.

Complainant also expects to add significant upward penalty adjustments based on Respondent's lack of cooperation with EPA, Respondent's high level of culpability and Respondent's extensive history of similar violations at this facility and numerous other facilities. In addition, Complainant expects to adjust the base penalty by a multiplier to account for relative sensitivity of environment affected by the violation.

Furthermore, a penalty component will be added to reflect any economic benefit gained by Respondent by failing to comply with the notification and investigation requirements, including, but not limited to, the cost of performing a tank tightness test to determine if the failed ATG result resulted from an actual leak in the UST.

COUNT 10 – 5608 Buckeystown Pike

Respondent failed to provide tank release detection for Tank FR-1 from at least February 4, 2004 until at least March 25, 2004; and from July 7, 2005 until at least December 7, 2005. Respondent failed to provide tank release detection for Tanks FR-2 and FR-3 from at least February 4, 2004 until at least March 21, 2004; and from July 7, 2005 until at least December 7, 2005. In addition, Respondent failed to provide tank release detection for Tank FR-4 from at least January 1, 2004 to at least the effective date of this Complaint.

As noted above, the failure to conduct tank release detection in a proper manner is generally considered a “major” deviation from the statutory and regulatory program with a “major” potential for harm to the environment and/or the regulatory program. In this instance there is no reason to deviate from that assessment.

Complainant also expects to add significant upward penalty adjustments based on Respondent’s lack of cooperation with EPA, Respondent’s high level of culpability and Respondent’s extensive history of similar violations at this facility and numerous other facilities. In addition, Complainant expects to adjust the base penalty by a multiplier to account for relative sensitivity of environment affected by the violation.

Furthermore, a penalty component will be added to reflect the economic benefit gained by Respondent by failing to comply with the tank release detection requirements. Given Respondent inability to successfully perform any method of tank release detection for Tank FR-4, it is likely that Respondent can come into compliance only by removing regulated substances from such UST, completing a regulatory closure, and replacing such UST with an aboveground tank or some other method for storing used motor oil. Respondent has thus gained an economic benefit by delaying the costs of implementing these measures.

V. OPPORTUNITY TO REQUEST A HEARING

Respondent has the right to request a hearing to contest any matter of law or material fact set forth in this Complaint and Compliance Order, the appropriateness of any penalty, or the terms of the Compliance Order. **To request a hearing, Respondent 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 Respondent has any knowledge. Where Respondent has 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 Respondent fails 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. Failure to file a written Answer may result in the filing of a Motion for Default Order imposing the penalties herein and ordering compliance with the terms of the Compliance Order without further proceedings.

Any hearing requested by Respondent 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 Respondent's Answer and all other documents that Respondent files in this action should be sent to the attorney assigned to represent EPA in this matter, as follows:

Benjamin D. Fields
Senior Assistant Regional Counsel
Mail Code 3RC30
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

VI. 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, Respondent may request a settlement conference with the Complainant to discuss the allegations of the Complaint and the amount of the proposed civil penalty. A request for a settlement conference does not relieve Respondent of its 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 a specific penalty is not proposed and 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 Respondent's right to contest the allegations of the Complaint and its right to appeal the proposed Final Order accompanying the Consent Agreement.

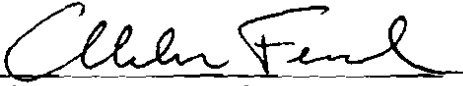
If you wish to arrange a settlement conference, please contact Benjamin D. Fields, Senior Assistant Regional Counsel, at (215) 814-2629. Please note that a request for a settlement conference does not relieve Respondent of its responsibility to file an Answer within thirty (30) days following its receipt of this Complaint.

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, Waste & 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: 9/28/07


Abraham Ferdas, Director
Waste and Chemicals Management
Division


CERTIFICATE OF SERVICE

I hereby certify that on the date below I hand-delivered the original and one copy of the attached Complaint and Notice of Opportunity for Hearing to the Regional Hearing Clerk, and caused a true and correct copy to be sent via Federal Express to:

Koo Yuen, President
Euclid of Virginia, Inc
4225 Connecticut Avenue
Washington, D.C. 20008

Thomas F. DeCaro, Jr.
DeCaro & Howell, P.C.
Suite 201
14406 Old Mill Road
Upper Marlboro, Maryland 20772-3029

9/28/07
Date



Benjamin D. Fields
Senior Assistant Regional Counsel