



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

VIA UPS OVERNIGHT MAIL

Zubair Wahla, Store Manager
Wahla Brothers Sargodha Inc.
1535 Kenilworth Avenue, NE
Washington, DC 20019

and

Zubair Wahla, President
1535 Kenilworth Ave, LLC
1535 Kenilworth Avenue, NE
Washington, DC 20019

DEC 13 2019

**Re: Administrative Complaint, Compliance Order
and Notice of Opportunity for Hearing**
EPA Docket No. RCRA-03-2019-0134

Dear Mr. Wahla:

The United States Environmental Protection Agency, Region III ("EPA"), hereby informs you, by the attached Administrative Complaint, Compliance Order and Notice of Opportunity for Hearing ("Complaint") that your companies, Wahla Brothers Sargodha Inc., and 1535 Kenilworth Ave, LLC are in violation of applicable federally enforceable underground storage tank requirements pursuant to the Resource Conservation and Recovery Act, Subtitle I, 42 U.S.C. §§ 6991-6991*m*.

In accordance with 40 C.F.R. § 22.15 of the Consolidated Rules of Practice ("Consolidated Rules"), you, on behalf of your companies, have until 30 days after receiving this Complaint to file a written Answer. The Answer must specifically address each of the factual allegations contained in the Complaint. In the written Answer, you may choose to request a hearing to contest any matter set forth in the Complaint. If you do not file a written Answer within 30 days, a Default Order may be issued imposing the penalties proposed by EPA without further proceedings. By failing to Answer, you admit all facts alleged in the Complaint and waive your rights to a hearing on the alleged facts. (Consolidated Rules set forth at 40 C.F.R. §§ 22.15 and .17, a copy of which are enclosed with the Complaint as Enclosure "A").

For your information, EPA encloses an Information Sheet for Small Businesses. EPA has not determined whether either of your companies are a "small business" under the Small Business Regulatory Enforcement Fairness Act ("SBREFA"). The enclosed sheet provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and

compliance activities and provides information on compliance assistance. If you decide to participate in this program or seek compliance assistance, you must still file an Answer in a timely manner. Participating in the program creates no new legal rights or defenses and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in resolving EPA's enforcement actions.

Should you have any questions or concerns, please feel free to contact Ms. Melissa Toffel in the Enforcement and Compliance Assurance Division, RCRA Section, at (215) 814-2060 or, if you are represented by counsel, please have your attorney contact Mr. Jeffrey S. Nast in the Office of Regional Counsel at (215) 814-2652.

Sincerely,

A handwritten signature in blue ink that reads "Karen Melvin". The signature is fluid and cursive, with the first name "Karen" being more prominent than the last name "Melvin".

Karen Melvin, Director
Enforcement and Compliance Assurance Division

Enclosures:

cc: Melissa Toffel, Mail Code 3ED22
Jeffrey S. Nast, Mail Code 3RC40

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

| | | |
|------------------------------|---|--------------------------------------|
| In the Matter of: |) | |
| |) | Administrative Complaint, Compliance |
| Wahla Brothers Sargodha Inc. |) | Order and Notice of Opportunity for |
| 1535 Kenilworth Avenue NE |) | Hearing |
| Washington, DC 20019 |) | |
| |) | U.S. EPA Docket Number |
| 1535 Kenilworth Ave, LLC |) | RCRA-03-2019-0134 |
| 1535 Kenilworth Avenue NE |) | |
| Washington, DC 20019 |) | Proceeding Under Section 9006 of the |
| |) | Resource Conservation and Recovery |
| RESPONDENTS, |) | Act, as amended, 42 U.S.C. Section |
| |) | 6991e |
| Kenilworth BP |) | |
| 1535 Kenilworth Avenue NE |) | AMENDED |
| Washington, DC 20019 |) | |
| |) | |
| |) | |
| FACILITY. |) | |

U.S. EPA-REGION 3-RHC
FILED-13DEC2019pm4:09

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

I. INTRODUCTION

This Amended 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, and supersedes the original Complaint.

EPA hereby notifies Wahla Brothers Sargodha Inc., and 1535 Kenilworth Ave, LLC, corporations registered in the District of Columbia (“Respondents”) that EPA has determined that the Respondents have violated certain provisions of Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991*m*, EPA’s regulations thereunder at 40 C.F.R. Part 280, and the District of Columbia’s federally authorized underground storage tank program with respect to the underground storage tanks at Respondents’ facility located at 1535 Kenilworth Avenue, NE, Washington, DC (the “Facility”). Section 9006 of RCRA, 42 U.S.C. § 6991*e*, authorizes EPA to take enforcement action, including issuing a compliance order and/or assessing a civil penalty, whenever it is determined that a person is in violation of any requirement of RCRA Subtitle I, EPA’s regulations thereunder, or any regulation of a state (or federal district) underground storage tank program which has been authorized by EPA.

Pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991*c*, and 40 C.F.R. Part 281, Subpart A, the District of Columbia was granted final authorization to administer an underground storage tank management program (“DC Authorized UST Management Program”) *in lieu* of the Federal underground storage tank management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991*i*. This authorization was effective on May 4, 1998. *See* 63 *Fed. Reg.* 24453 (May 4, 1998). Through this final authorization, the provisions of the District of Columbia Authorized UST Management Program became requirements of RCRA Subtitle I and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991*e*. As of the date of EPA’s authorization of the District of Columbia’s Authorized UST Management Program, these provisions were codified in the District of Columbia Municipal Regulations, Title 20, Chapters 55

et seq., and will be cited herein as 20 DCMR §§ 5500, *et seq.*, a copy of which is enclosed with this Complaint (Enclosure "B").

Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d), authorizes EPA to assess a civil penalty against any owner or operator of an underground storage tank who fails to comply with, *inter alia*, any requirement or standard promulgated under Section 9003 of RCRA, 42 U.S.C. § 6991b (40 C.F.R. Part 280) or any requirement or standard of a State underground storage tank program that has been approved by EPA pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c.

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

In support of this Complaint, the Complainant makes the following allegations, findings of fact and conclusions of law:

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondents, Wahla Brothers Sargodha Inc., and 1535 Kenilworth Ave, LLC, District of Columbia registered entities, are individually, a "person" as defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 25 PA Code § 245.1.
2. Respondent, Wahla Brothers Sargodha Inc. is and, at all times relevant to the allegations in this Complaint, has been the "operator" and Respondent 1535 Kenilworth Ave, LLC, has been the "owner" as these terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 20 DCMR § 6899.1, of the "underground storage tanks" ("USTs") and "UST systems" as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and 20 DCMR § 6899.1, located at the Facility.
3. On August 29, 2017, an EPA representative conducted a Compliance Evaluation Inspection ("CEI") of the Facility pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.

4. At the time of the August 29, 2017 CEI, and based upon information provided by Respondents to EPA and at all times relevant to the violations alleged herein, 5 USTs, as described in the following subparagraphs, were located at the Facility:
- A. a ten thousand (10,000) gallon cathodically protected steel tank that was installed in or about September 1987 and that, at all times relevant hereto, routinely contained and was used to store regular grade gasoline, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter “UST No. 1”);
 - B. a ten thousand (10,000) gallon cathodically protected steel tank that was installed in or about September 1987 and that, at all times relevant hereto, routinely contained and was used to store regular grade gasoline, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter “UST No. 2”);
 - C. a ten thousand (10,000) gallon cathodically protected steel tank that was installed in or about September 1987 and that, at all times relevant hereto, routinely contained and was used to store premium grade gasoline, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter “UST No. 3”);
 - D. a ten thousand (10,000) gallon cathodically protected steel tank that was installed in or about September 1987 and that, at all times relevant hereto, routinely contained and was used to store diesel fuel, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter “UST No. 4); and

- E. a five hundred fifty (550) gallon cathodically protected steel tank that was installed in or about September 1987 and that, at all times relevant hereto, routinely contained and was used to store waste oil, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter “UST No. 5”).
5. At all times relevant to the violations alleged herein, USTs Nos. 1, 2, 3, 4 and 5 each have been a “petroleum UST system” and “existing UST system” as these terms are defined in 20 DCMR § 6899.1, respectively.
6. USTs Nos. 1 through 5 are and were, at all times relevant to the violations alleged herein, have stored “regulated substance(s)” at Respondents’ Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1, and have not been “empty” as that term is defined at 20 DCMR § 6100.7.
7. On November 29, 2017, an EPA representative sent an email to Respondents with a follow-up Request for Information, issued pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a). This Request for Information, (for FIN 7000102), required the Respondents to provide certain information regarding the USTs at the Facility.

COUNT #1

(Failure to provide an adequate release detection method on UST #5)

8. The allegations in the preceding paragraphs of this Complaint are incorporated herein by reference.
9. 20 DCMR § 6000.1 provides that each owner and operator of a new or existing UST system shall provide a method, or combination of methods, of release detection that meets the requirements described therein.

10. 20 DCMR §§ 6003.1 through 6003.5, states that 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: (1) prior to December 22, 1995, certain UST systems could have been monitored using a combination of inventory control and tank tightness testing in compliance with the requirements of 20 DCMR §§ 6005 through 6007; and (2) tanks with a capacity of 550 gallons or less may use weekly tank gauging conducted in accordance with 20 DCMR § 6006.
11. From 10/1/2014 until 9/1/2019, the method of release detection selected by Respondent for UST No. 5 was manual tank gauging in accordance with 20 DCMR § 6006.
12. From 10/1/2014 until 9/1/2019 Respondents failed to correctly perform manual tank gauging for the UST No. 5 in accordance with 20 DCMR § 6006 insofar as the manual tank gauging was not being recorded to the nearest 1/8" (20 DCMR § 6006.4) and the required downtime of 36 hours (20 DCMR § 6006.3) was not being observed between measurements as required by the provisions of 20 DCMR § 6006.
13. During the period of time indicated in Paragraphs 11 and 12, above, Respondents did not use any of the other release detection methods specified in 20 DCMR § 6003.3 through 6003.5 and/or 20 DCMR §§ 6005 through 6012 on UST No. 5.
14. Respondents' acts and/or omissions as alleged in Paragraphs 11 through 13, above, constitute violations by the Respondents of 20 DCMR §§ 6000.1 and 6003.

COUNT #2

(Failure to conduct tank release detection every 30 days on USTs Nos. 1 through 4)

15. The allegations in the preceding paragraphs of this Complaint are incorporated herein by reference.
16. 20 DCMR § 6000.1 provides that each owner and operator of a new or existing UST system shall provide a method, or combination of methods, of release detection that meets the requirements described therein.
17. Pursuant to 20 DCMR §§ 6003.1 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: (1) prior to December 22, 1995, certain UST systems could have been monitored using a combination of inventory control and tank tightness testing in compliance with the requirements of 20 DCMR §§ 6005 through 6007; and (2) tanks with a capacity of 550 gallons or less may use weekly tank gauging conducted in accordance with 20 DCMR § 6006.
18. From 6/14/2016 until 3/9/2017, the method of release detection selected by The Respondents for USTs Nos. 1 through 4 has been automatic tank gauging in accordance with 20 DCMR § 6008.
19. On the following time periods: 6/14/2016 – 7/12/2016 (28 days); 8/12/2016 – 11/3/2016 (83 days); and 12/3/2016 – 3/9/2017 (96 days), the Respondents failed to perform automatic tank gauging for USTs Nos. 1 through 4 in accordance with 20 DCMR § 6008.
20. During the periods of time indicated in Paragraph 18 and 19, above, Respondents did not use any of the other release detection methods specified in 20 DCMR § 6003.3 through 6003.5 and/or 20 DCMR §§ 6005 through 6012 on USTs Nos. 1 through 4.

21. Respondents' acts and/or omissions as alleged in Paragraphs 18 through 20, above, constitute violations by Respondent of 20 DCMR §§ 6000.1 and 6003.

COUNT #3

(Failure to perform automatic line leak detector testing annually on USTs Nos. 1 through 3)

22. The allegations in the preceding paragraphs of this Complaint are incorporated herein by reference.
23. 20 DCMR § 6000.1 provides that each owner and operator of a new or existing UST system shall provide a method, or combination of methods, of release detection that meets the requirements described therein.
24. 20 DCMR § 6000.2 provides that the owner and operator of each UST system, regardless of the date of installation, shall immediately comply with the release detection requirements for all pressurized piping as set forth in 20 DCMR §§ 6004.2 and 6004.3.
25. 20 DCMR § 6004.1 provides that the owner and operator of a petroleum UST system shall regularly monitor all underground piping that contains or conveys regulated substances for releases in accordance with 20 DCMR § 6004.
26. 20 DCMR § 6004.2 provides that underground piping that conveys regulated substances under pressure shall be equipped with an automatic line leak detector, in accordance with § 6013.2 of this chapter.
27. 20 DCMR § 6013.2 provides, in pertinent part, that the owner or operator shall conduct an annual test of the operation of the leak detector, in accordance with the manufacturer's requirements.

28. From 7/12/2017 until 12/19/2018, the Respondents failed to conduct an annual test of the operations of the line leak detector for USTs No. 1, 3, and 4 in accordance with 20 DCMR §§ 6004.2, 6008, and 6013.2.
29. Respondents' acts and/or omissions as alleged in Paragraphs 27 and 28, above, constitute violations by Respondents of 20 DCMR 6008, § 20 DCMR § 6004.2 and 20 DCMR § 6013.2.

COUNT #4

(Failure to test the cathodic protection system for an UST every three years for UST No. 5)

30. The allegations in the preceding paragraphs of this Complaint are incorporated herein by reference.
31. 20 DCMR § 5901.1 provides that each owner and operator of a steel UST system or a steel-fiberglass-reinforced plastic composite UST system with corrosion protection shall comply with the requirements of 20 DCMR § 5901 to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances.
32. 20 DCMR § 5901.4 provides that each steel or steel-fiberglass-reinforced plastic composite UST system equipped with a cathodic protection system must be inspected for proper operation by a qualified cathodic protection tester within 6 months of installation and at least once every 3 years thereafter.
33. UST No. 5 is and, from 8/11/2017 until 1/28/2019, was a steel UST system used to store regulated substances and was equipped with "cathodic protection" within the meaning of 20 DCMR § 5901.4.

34. The previous cathodic protection system test for UST No. 5 was conducted on or about 8/11/2014. The system was not tested again until 1/28/2019.
35. From 8/11/2017 until 1/28/2019, the Respondents failed to test the cathodic protection system for UST No. 5 at the Facility as required by 20 DCMR § 5901.4.
36. Respondents' act and/or omission as alleged in Paragraphs 34 and 35, above, constitute a violation by the Respondents of 20 DCMR § 5901.4.

III. COMPLIANCE ORDER

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

37. Within thirty (30) days of the effective date of this Compliance Order, comply with the release detection requirements of 20 DCMR §§ 6000.1 and 6003 for all UST systems located at the Facility subject to this Complaint or close such USTs/UST systems in accordance with 20 DCMR Chapter 61.
38. Within thirty (30) days of the effective date of this Compliance Order provide the preceding six (6) months of records of manual tank gauging for UST #5 required by 20 DCMR § 6000 *et seq.*
39. Provide monthly manual tank gauging records for a period of six (6) months for UST No. 5, as they become available, for the six-month period following the filing of this Complaint.
40. Immediately maintain all records of release detection monitoring of USTs at the Facility in accordance with 20 DCMR §§ 5602.4 and 6001.
41. Within thirty (30) days of the effective date of this Compliance Order, provide documentation of the Line Leak Detector testing that took place on 12/19/18 for UST

Nos. 1, 3, and 4 and thereafter remain in compliance with line leak detector testing requirements of 20 DCMR § 6013.2.

42. Within thirty (30) days of the effective date of this Compliance Order, comply with the 6 month and/or 3-year testing requirement for cathodic protection system, for USTs Nos. 1 through 5 in accordance with 20 DCMR § 5901.4.
43. Report all releases and suspected releases of regulated substances in accordance with 20 DCMR § 6202.
44. Investigate and confirm all suspected releases of regulated substances in accordance with 20 DCMR § 6203.
45. Within seventy-five (75) days of the effective date of this Compliance Order, submit to EPA a report which documents and certifies Respondent's compliance with the terms of this Compliance Order.
46. Any notice, report, certification, data presentation, or other document submitted by the Respondents pursuant to this Compliance Order which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondents' compliance or noncompliance with any requirement of this Compliance Order shall be certified by a responsible representative(s) of the Respondents, as described in 40 C.F.R. § 270.11(a).

The certification of the responsible representative(s) 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: _____

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

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

Melissa Toffel
RCRA Section (3ED22)
U.S. Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

and

Jeffrey S. Nast
Sr. Assistant Regional Counsel (3RC40)
U.S. Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

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

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

48. If activities undertaken by the Respondents in connection with this Compliance Order or otherwise indicate that a release of a regulated substance from any UST at the Facilities

may have occurred, the Respondents may be required to undertake corrective action pursuant to applicable regulations in 20 DCMR § 6200.

49. The Respondents are hereby notified that failure to comply with any of the terms of this Compliance Order may subject each Respondent to the imposition of a civil penalty of up to \$60,039 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 Civil Monetary Penalty Inflation Adjustment Rules codified at 40 C.F.R. Part 19. (Enclosure “D” and “E”).
50. The term “days” as used herein shall mean calendar days unless specified otherwise.

IV. PROPOSED CIVIL PENALTY

Section 9006(d)(2) of RCRA, 42 U.S.C. § 6991e(d)(2), and 40 C.F.R. Part 19, provide, in relevant part, that any owner or operator of an underground storage tank who fails to comply with any requirement or standard promulgated by EPA under Section 9003 of RCRA, 42 U.S.C. § 6991c, or that is part of an authorized state underground storage tank program shall be liable for a civil penalty not to exceed \$10,000 for each tank for each day of violation. In accordance with the Adjustment of Civil Monetary Penalties for Inflation, promulgated pursuant to the Debt Collection Improvement Act of 1996 and codified at 40 C.F.R. Part 19, all violations of RCRA Section 9006(d)(2), 42 U.S.C. § 6991e(d)(2), occurring after November 2, 2015 where penalties are assessed on or after January 15, 2018 shall be liable for a civil penalty not to exceed \$24,017 for each tank for each day of violation. For purposes of determining the amount of any penalty to be assessed, Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), requires EPA to take into

account the seriousness of the violation and any good faith efforts to comply with the applicable requirements.

Pursuant to 40 C.F.R. § 22.14(a)(4)(ii) of the Consolidated Rules, 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).

To develop a proposed penalty for the violations alleged in this Complaint, EPA will take into account the particular facts and circumstances of this case with specific reference to EPA's Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations (“UST Penalty Guidance”) dated October 5, 2018, which reflects the statutory penalty criteria and factors set forth Section 9006(c) of RCRA (Enclosure C), the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19 (Enclosure D), and the Transmittal of the 2019 annual Civil Monetary Penalty Civil Monetary Penalty Inflation Adjustment Rule (March 4, 2019) (Enclosure E). 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 also consider, among other factors, each Respondent’s ability to pay a civil penalty. The burden of raising and demonstrating an inability to pay rests with each Respondent. In addition, to the extent that facts and circumstances unknown to Complainant at the time of issuance of this Complaint become known after the Complaint is issued, such facts and circumstances may also be considered as a basis for adjusting a civil penalty.

This Complaint 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 and severity of the violations alleged in this Complaint is set forth below.

Failure to provide adequate release detection (Tank 5) as described in Count I

The “potential for harm” for this violation is “major.” Given that USTs are, by definition, underground, it is critically important that facility owners and operators utilize effective methods of detecting releases from such tanks. The prevention and detection of leaks are the cornerstones of the UST regulatory program. Respondent’s failure to use an acceptable method of release detection created the possibility of a leak going undetected and harming human health or the environment.

The “extent of deviation” for this violation is “major.” Failure to monitor an UST for releases at least every 30 days using an allowable method of release detection typically constitutes a “major” deviation from the requirements of the RCRA regulatory program. Respondent attempted to utilize manual tank gauging, however the records indicate that the measurements were not accurate to the nearest 1/8” and the minimum interval of downtime between measurements of 36 hours was not observed.

Failure to provide release detection (Tanks 1-4) as describe in Count II

The “potential for harm” for this violation is “major.” Given that USTs are, by definition, underground, it is critically important that facility owners and operators utilize effective methods of detecting releases from such tanks. The prevention and detection of leaks are the cornerstones of the UST regulatory program. Respondent’s failure to use an acceptable method of release detection created the possibility of a leak going undetected and harming human health or the environment.

The “extent of deviation” for this violation is “major.” Failure to monitor an UST for releases at least every 30 days using an allowable method of release detection typically constitutes a “major” deviation from the requirements of the RCRA regulatory program. Records indicate that there were large gaps of time when the USTs were not properly monitored for release detection at all.

Failure to perform automatic line leak detector testing annually as described in Count III

The “potential for harm” for this violation is major. It is critically important that facility owners and operators utilize effective methods of detecting releases from USTs and their associated piping. The prevention and detection of leaks are the cornerstones of the UST regulatory program. Respondent’s failure to perform an annual line leak detector test for the underground piping associated with USTs Nos. 1,3, and 4 at the Facility presented a substantial risk to human health or the environment from a leak going undetected.

The “extent of deviation” for this violation is also major because it presents a substantial deviation from the requirements of the RCRA regulatory program.

Failure to test the cathodic protection system

The “potential for harm” for this violation is “major.” The purpose of cathodic protection testing is to ensure that releases due to corrosion are prevented for as long as the steel UST system is used to store regulated substances. Respondent did not perform a test of the cathodic protection system to ensure integrity of the metal parts of the UST system at the Facility every 3 years since its installation. Respondent’s inaction posed a significant or potential harm to human health and the environment.

The “extent of deviation” for this violation is “major.” Failure to perform cathodic protection testing on an UST system every 3 years following its installation presents a substantial act of noncompliance with the goals of the UST program.

V. NOTICE OF RIGHT TO REQUEST A HEARING

The Respondents may request a hearing before an EPA Administrative Law Judge and at such hearing may contest any material fact upon which the Complaint is based, contest the appropriateness of any compliance order or proposed penalty, and/or assert that the Respondents are entitled to judgment as a matter of law. To request a hearing, each Respondent must file a written answer ("Answer") within thirty (30) days after service of this Complaint. The Answer should clearly and directly admit, deny or explain each of the factual allegations contained in this Complaint of which Respondent has any knowledge. Where a Respondent has no knowledge of a particular factual allegation and so states, such a statement is deemed to be a denial of the allegation. The Answer should contain: (1) the circumstances or arguments which are alleged to constitute the grounds of any defense; (2) the facts which Respondent disputes; (3) the basis for opposing any proposed relief; and (4) a statement of whether a hearing is requested. All material facts not denied in the Answer will be considered to be admitted.

Failure of either Respondent to admit, deny or explain any material allegation in the Complaint shall constitute an admission by such Respondent of such allegation. Failure to Answer may result in the filing of a Motion for Default Order and the possible issuance of a Default Order imposing the penalties proposed herein without further proceedings.

Any hearing requested and granted will be conducted in accordance with the Consolidated Rules, a copy of which has been enclosed with this Complaint (Enclosure "A"). Respondents must send any Answer and request for a hearing to the attention of:

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

In addition, please send a copy of any Answer and/or request for a hearing to the attention of:

Jeffrey S. Nast
Sr. Assistant Regional Counsel
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

VI. SETTLEMENT CONFERENCE

Complainant encourages settlement of this proceeding at any time after issuance of the Complaint if such settlement is consistent with the provisions and objectives of RCRA. Whether or not a hearing is requested, Respondents may request a settlement conference with the Complainant to discuss the allegations of the Complaint, and the amount of the proposed civil penalty. **HOWEVER, A REQUEST FOR A SETTLEMENT CONFERENCE DOES NOT RELIEVE THE RESPONDENTS OF THEIR RESPONSIBILITY TO FILE A TIMELY ANSWER.**

In the event settlement is reached, its terms shall be expressed in a written Consent Agreement prepared by Complainant, signed by the parties, and incorporated into a Final Order signed by the Regional Administrator or his designee. The execution of such a Consent Agreement shall constitute a waiver of Respondents' right to contest the allegations of the Complaint and its right to appeal the proposed Final Order accompanying the Consent Agreement.

If you wish to arrange a settlement conference, please contact Jeffrey S. Nast, Senior Assistant Regional Counsel, at (215) 814-2652 prior to the expiration of the thirty (30) day period following service of this Complaint. Once again, however, such a request for a settlement conference does not relieve Respondents of their responsibility to file Answer(s) within thirty (30) days following service of this Complaint.

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

VII. SEPARATION OF FUNCTIONS AND *EX PARTE* COMMUNICATIONS

The following Agency officers, and the staffs thereof, are designated as the trial staff to represent the Agency as the party in this case: the Region III Office of Regional Counsel, the Region III Enforcement and Compliance Assurance Division, and the Office of the EPA Assistant Administrator for Enforcement and Compliance Assurance. Commencing from the date of issuance of this Complaint until issuance of a final agency decision in this case, neither the Administrator, members of the Environmental Appeals Board, Presiding Officer, Regional Administrator, nor Regional Judicial Officer, may have an *ex parte* communication with the trial staff or the merits of any issue involved in this proceeding. Please be advised that the Consolidated Rules prohibit any *ex parte* discussion of the merits of a case with, among others, the Administrator, members of the Environmental Appeals Board, Presiding Officer, Judicial Officer, Regional Administrator, Regional Judicial Officer, or any other person who is likely to advise these officials on any decision in this proceeding after issuance of this Complaint.

Dated: DEC 11 2019



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

- Enclosures:
- A. Consolidated Rules of Practice, 40 C.F.R. Part 22
 - B. District of Columbia Regulations, Title 20, Chapters 55 *et seq.*
 - C. UST Penalty Guidance
 - D. Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19
 - E. Transmittal of the 2019 annual Civil Monetary Penalty Civil Monetary Penalty Inflation Adjustment Rule (March 4, 2019)

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

| | | |
|------------------------------|---|--------------------------------------|
| Wahla Brothers Sargodha Inc. |) | |
| 1535 Kenilworth Ave NE |) | Administrative Complaint, Compliance |
| Washington, DC 20019 |) | Order and Notice of Opportunity for |
| |) | Hearing |
| 1535 Kenilworth Ave, LLC |) | |
| 1535 Kenilworth Avenue NE |) | U.S. EPA Docket Number |
| Washington, DC 20019 |) | RCRA-03-2019-0134 |
| |) | |
| |) | Proceeding Under Section 9006 of the |
| Respondents. |) | Resource Conservation and Recovery |
| |) | Act, as amended, 42 U.S.C. Section |
| |) | 6991e |
| |) | |
| Kenilworth BP |) | AMENDED |
| 1535 Kenilworth Ave NE |) | |
| Washington, DC 20019 |) | |
| |) | |
| Facility. |) | |

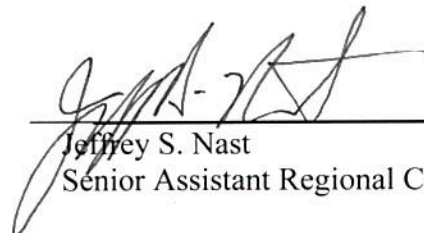
CERTIFICATE OF SERVICE

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

Zubair Wahla
Wahla Brothers Sargodha Inc.
1535 Kenilworth Avenue NE
Washington, DC 20019

Zubair Wahla
1535 Kenilworth Ave, LLC
1535 Kenilworth Avenue NE
Washington, DC 20019

12/13/19
Date



Jeffrey S. Nast
Senior Assistant Regional Counsel

UPS TRACKING #: 1Z A43 F71 24 9747 1271 (WBS Inc.), and
1Z A43 F71 24 9524 2281 (1535 KA, LLC)