

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

In the Matter of:)	
)	Administrative Complaint, Compliance
Top Gas and Mini Mart, LLC.)	Order and Notice of Opportunity for
4548 Baltimore Avenue)	Hearing
Philadelphia, PA 19143)	
)	U.S. EPA Docket Number
Ezra Reuven, individually)	RCRA-03-2019-0103
301 South 48 th Street)	
Philadelphia, PA 19139)	Proceeding Under Section 9006 of the
)	Resource Conservation and Recovery
RESPONDENTS,)	Act, as amended, 42 U.S.C. Section
)	6991e
Gas Auto Repair and Mini Mart)	
4548 Baltimore Avenue)	
Philadelphia, PA 19143)	
)	
)	
FACILITY.)	

U.S. EPA-REGION 3-RHC
FILED-17SEP2019PM12:44

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 Ezra Reuven, individually, and Top Gas and Mini Mart, LLC., a Pennsylvania limited liability company (collectively the “Respondents”) that EPA has determined that Respondents have violated certain provisions of Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991*m*, EPA’s regulations thereunder at 40 C.F.R. Part 280, and the Commonwealth of Pennsylvania's federally authorized underground storage tank program with respect to the underground storage tanks at Respondents’ facility located at 4548 Baltimore Avenue, Philadelphia, Pennsylvania (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 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 Commonwealth of Pennsylvania was granted final authorization to administer a state underground storage tank management program (“Pennsylvania 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 September 11, 2003. *See* 68 *Fed. Reg.* 53520 (September 11, 2003) and 40 C.F.R. § 282.88. Through this final authorization, the provisions of the Pennsylvania 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 Pennsylvania’s Authorized UST Management Program, these provisions were codified in Chapter 245 of Title 25 of the Pennsylvania Code, and will be cited herein as 25 PA Code §§ 245.1 *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 Commonwealth of Pennsylvania 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. Respondent, Top Gas and Mini Mart, LLC., a Commonwealth of Pennsylvania limited liability company, is a “person” as defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 25 PA Code § 245.1.
2. Respondent, Top Gas and Mini Mart, LLC. is and, at all times relevant to the allegations in this Complaint, has been the “operator” as these terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 25 PA Code § 245.1, of “underground storage tanks” (“USTs”) and “UST systems,” as this term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 25 PA Code § 245.1, located at the Facility.
3. Respondent, Ezra Reuven, is a “person” as defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 25 PA Code § 245.1.
4. Respondent, Ezra Reuven is and, at all times relevant to the allegations in this Complaint, has been the “owner” as this term is defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 25 PA Code § 245.1, of “underground storage tanks” (“USTs”) and “UST systems,” as those

terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and 25 PA Code § 245.1, located at the Facility.

5. On September 28, 2017, an EPA representative conducted a Compliance Evaluation Inspection (“CEI”) of the Facility pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.

6. On November 30, 2017, an EPA representative sent via United Parcel Service (UPS) overnight mail to Respondents a Request for Information, issued pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a). This Request for Information, I18-003, required Respondents to provide certain information regarding the USTs at the Facility.

7. At the time of the September 28, 2017 CEI, and based upon information provided by Respondents in response to EPA’s November 30, 2017 Request for Information, I18-003, described in Paragraph 6, above, and at all times relevant to the violations alleged herein, 4 USTs, as described in the following subparagraphs, were located at the Facility:

- A. a six thousand (6,000) gallon single-walled fiberglass reinforced plastic tank that was installed in or about March 1983 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 25 PA Code § 245.1 (hereinafter “UST No. 1”);
- B. a six thousand (6,000) gallon single-walled fiberglass reinforced plastic tank that was installed in or about March 1983 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 25 PA § 245.1 (hereinafter “UST No. 2”);

- C. a six thousand (6,000) gallon single-walled fiberglass reinforced plastic tank that was installed in or about March 1983 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 25 PA § 245.1 (hereinafter “UST No. 3”), and
- D. a five hundred (500) gallon tank with an unknown material of construction and installation date 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 25 PA § 245.1 (hereinafter “UST No. 4”).

8. At all times relevant to the violations alleged herein, USTs Nos. 1, 2, 3, and 4 have been a “petroleum UST system” and “existing UST system” as these terms are defined in 25 PA § 245.1, respectively.

9. USTs Nos. 1 through 4 are and were, at all times relevant to the violations alleged herein, stored “regulated substance(s)” at Respondents’ Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 25 PA § 245.1, and have not been “empty” as that term is defined at 25 PA § 245.451.

10. On April 19, 2018, an EPA representative sent via UPS overnight mail to Respondents a follow-up Request for Information, issued pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a). This Request for Information, I18-014, required Respondents to provide certain information regarding the USTs at the Facility.

COUNT 1
(Failure to Respond to an Information Request Letter)

11. Pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a), an owner or operator of an UST must, upon request by any duly designated representative of EPA, furnish, in relevant part, information and records with regard to such UST.

12. On April 19, 2018, EPA representatives sent via UPS overnight mail to Respondents a Request for Information, issued pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a). This Request for Information required Respondents to provide certain information regarding the USTs at the Facility. The letter containing such Request was received by Respondents on April 20, 2018.

13. The April 19, 2018 Request for Information required Respondents to provide the requested information no later than fourteen (14) calendar days from the date of Respondents' receipt of the Request. Respondents were thus required to provide the requested information by no later than May 3, 2018.

14. Having received no response to the April 19, 2018 Request for Information, EPA sent Respondents a follow-up notice letter dated May 11, 2018 regarding the outstanding Request for Information dated April 19, 2018. The follow-up notice letter dated May 11, 2018 was received by Respondents on May 16, 2018.

15. As of the date of this Complaint, Respondents have not sent to EPA the information requested in the April 19, 2018 Request for Information.

16. From at least May 3, 2018 to the date of this Complaint, Respondents have violated Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a), by failing to provide a response to EPA's April 19, 2018 Request for Information.

COUNT #2

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

17. The allegations of Paragraphs 1 through 16 of this Complaint are incorporated herein by reference.
18. Pursuant to 25 PA Code § 245.441(a) and (c), owners and operators of new and existing UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described therein.
19. 25 PA Code § 245.442(2)(i) provides, in pertinent part, that underground piping that conveys regulated substances under pressure shall:
 - (A) Be equipped with an automatic line leak detector conducted in accordance with § 245.445(1); and
 - (B) Have an annual line tightness test conducted in accordance with § 245.445(2) or have monthly monitoring conducted in accordance with § 245.445(3).
20. 25 PA Code § 245.445(1) provides, in pertinent part, that an annual test of the operation of the leak detector shall be conducted in accordance with the manufacturer's requirements.
21. Upon information and belief, Respondents conducted testing of the automatic line leak detectors for the underground piping associated with USTs Nos. 1 through 3 on April 19, 2015.

22. From April 20, 2016 until September 13, 2017, the piping for USTs Nos. 1 through 3 was underground and routinely conveyed regulated substances under pressure.
23. Respondents failed to perform an annual test of the automatic line leak detectors for the underground piping for USTs Nos. 1 through 3 during the period from April 20, 2016 until September 13, 2017.
24. Respondents' acts and/or omissions as alleged in Paragraphs 21 through 23, above, constitute a violation by Respondents of 25 PA Code § 245.445(1).

COUNT #3

(Failure to perform line tightness testing or monthly monitoring on piping for USTs Nos. 1 through 3)

25. The allegations of Paragraphs 1 through 24 of this Complaint are incorporated herein by reference.
26. Respondents conducted a line tightness test of the piping associated with USTs Nos. 1 through 3 on April 19, 2015.
27. From April 20, 2016 until September 13, 2017, the piping for USTs Nos. 1 through 3 was underground and routinely conveyed regulated substances under pressure.
28. Respondents failed to perform an annual line tightness testing in accordance with 25 PA Code § 245.445(2) or have monthly monitoring conducted in accordance with 25 PA Code § 245.445(3) for the underground piping associated with USTs Nos. 1 through 3 from April 20, 2016 until September 13, 2017.
29. Respondents' acts and/or omissions as alleged in Paragraphs 26 through 28, above, constitute a violation by Respondents of 25 PA Code § 245.442(2)(i)(B).

COUNT #4

(Failure to provide an automatic leak detector that meets
the standards of 25 PA Code § 245.445(1))

30. The allegations of Paragraphs 1 through 29 of this Complaint are incorporated herein by reference.
31. 25 PA Code § 245.445 provides, in pertinent part, each method of release detection for piping used to meet the requirements of 25 PA Code § 245.442 (relating to requirements for petroleum underground storage tank systems) shall be conducted in accordance with the following:
 - (1) *Automatic line leak detectors.* Methods which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping such as or triggering an audible alarm or visual alarm may be used only if they detect leaks of 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour.
32. At the time of the September 28, 2017 CEI, the line leak detector for UST No. 3 was not functioning as designed by the manufacturer to alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible alarm or visual alarm that detects leaks of 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour as required by 25 PA Code § 245.445(1).
33. Respondents' acts and/or omissions as alleged in Paragraph 32, above, constitute a violation by Respondents of 25 PA Code § 245.445(1).

III. COMPLIANCE ORDER

34. Pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, Respondent is hereby ordered to:

A. Within fifteen (15) calendar days after the Compliance Order becomes a Final Order, Respondents must provide a full response to the April 19, 2018 Request for Information, certified in the manner described in the Request.

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

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

Marie Owens-Powell
RCRA Section
Mail Code 3ED22
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

and

Louis F. Ramalho
Senior Assistant Regional Counsel
Mail Code 3RC40
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

(b) One copy to the Commonwealth of Pennsylvania, Department of Environmental Protection, by regular mail, to:

Kris A. Shiffer, Env'tl. Group Mgr.
Pennsylvania Department of Environmental Protection
Division of Storage Tanks
Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17101

35. Within forty-five (45) days of the effective date of this Compliance Order, conduct a test of the line leak detector for USTs Nos. 1 through 3, and thereafter remain in compliance with line leak detector testing requirements of 25 PA Code § 245.445(1) for such UST systems located at the Facility subject to this Complaint.
36. Within forty-five (45) days of the effective date of this Compliance Order, perform an annual line tightness testing in accordance with 25 PA Code § 245.445(2) or have monthly monitoring conducted in accordance with 25 PA Code § 245.445(3) for the underground piping associated with USTs Nos. 1 through 3 located at the Facility subject to this Complaint.
37. Within forty-five (45) days of the effective date of this Compliance Order, install an automatic leak detector for UST No. 3 that meets the performance standards of 25 PA Code § 245.445(1).
38. Any notice, report, certification, data presentation, or other document submitted by each Respondent 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 Respondents' manager.

The certification 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: _____

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

Marie Owens-Powell
RCRA Section
Mail Code 3ED22
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

and

Louis F. Ramalho
Sr. Assistant Regional Counsel (3RC30)
U.S. Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

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

Kris Shiffer
Environmental Group Manager
PADEP – Division of Storage Tanks
Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17101

40. 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 Facility may have occurred, Respondents may be required to undertake corrective action pursuant to applicable regulations in 25 Pa. Code. § 245.301 et. seq.

41. 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”).
42. 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 \$23,426 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 of Practice (“Consolidate 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 Respond to an Information Request Letter.

The “potential for harm” for this violation is “major”. It is critically important that facility owners and operators provide EPA with up-to-date compliance information pursuant to 9005 of RCRA to demonstrate compliance with Subtitle I of RCRA. The collection of information pursuant to 9005 of RCRA from Respondents is a cornerstone of the RCRA enforcement program. Respondents’ failure to comply with an information request letter issued pursuant to Section 9005 of RCRA presents a substantial risk to human health or the environment because EPA is unable to determine on-going compliance with leak detection from UST systems.

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 perform automatic line leak detection annually.

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. Respondents’ failure to perform an annual line leak detector test for the underground piping associated with USTs 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 perform annual line tightness testing or monthly monitoring.

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. Respondents' failure to perform an annual line tightness test or monthly monitoring of underground piping associated with USTs 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 provide an automatic leak detector for UST No. 3 that meets the performance standards of 25 PA Code § 245.445(1)

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. Respondents' failure to provide an automatic leak detector that meets the regulatory performance standards for piping associated with the UST No. 3 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.

V. NOTICE OF RIGHT TO REQUEST A HEARING

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 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:

Louis F. Ramalho
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 Louis F. Ramalho, Senior Assistant Regional Counsel, at (215) 814-2681 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.

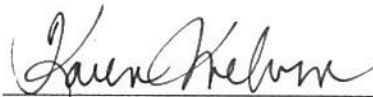
Please note that the Quick Resolution settlement procedures set forth in 40 C.F.R. § 22.18 do not apply to this proceeding because the Complaint seeks a compliance order. See 40 C.F.R. § 22.18(a)(1).

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: SEP 16 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. Chapter 245 of Title 25 of the Pennsylvania Code
 - 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
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CERTIFICATE OF SERVICE

I certify that on September 17, 2019, the original and one (1) copy of foregoing *Administrative Complaint, Compliance Order and Notice of Opportunity for Hearing*, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the same to each of the following persons, in the manner specified below, at the following addresses:

Copy served via **UPS OVERNIGHT Mail, Signature Confirmation Requested, Postage Prepaid**, to:

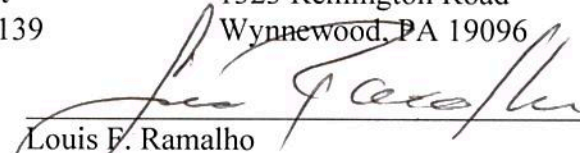
Top Gas and Mini Mart, LLC.
4548 Baltimore Avenue
Philadelphia, PA 19143

Ezra Reuven
301 South 48th Street
Philadelphia, PA 19139

Ezra Reuven
1323 Remington Road
Wynnewood, PA 19096

Dated: _____

9/17/2019



Louis F. Ramalho
Senior Assistant Regional Counsel
U.S. EPA, Region 3
1650 Arch Street
Philadelphia, PA 19103