

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

In the Matter of:)	
	)	Administrative Complaint, Compliance
Fiaz Munir	)	Order and Notice of Opportunity for
34099 Market Street	)	Hearing
Pocomoke City, MD 21851)	
	)	U.S. EPA Docket Number
RESPONDENT	)	RCRA-03-2019-0050
River Market)	
34099 Market Street	)	Proceeding Under Section 9006 of the
Pocomoke City, MD 21851	)	Resource Conservation and Recovery
	)	Act, as amended, 42 U.S.C. Section
	)	6991e
FACILITY.)	

**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 hereinafter 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, a copy of which is enclosed with this Complaint.

EPA hereby notifies Fiaz Munir (“Respondent”) that EPA has determined that Respondent has violated certain provisions of Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m, with respect to the underground storage tanks at Respondent’s River Market facility located at

34099 Market Street in Pocomoke City, Maryland (the "Facility"). Section 9006 of RCRA, 42 U.S.C. § 6991e, authorizes EPA to take an enforcement action, including issuing a compliance order, whenever it is determined that a person is in violation of any requirement of Subtitle I of RCRA and assessing a penalty if a violator fails to comply with a compliance order so issued.

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 underground storage tank management program ("Maryland Authorized UST Management Program") *in lieu* of the Federal underground storage tank management program established under Subtitle I of RCRA, 42 U.S.C. § 6991-6991m. This authorization was effective on July 30, 1992. *See 57 Fed. Reg.* 29034 (June 30, 1992) and *57 Fed. Reg.* 8420 (March 10, 1992). Through this final authorization, the provisions of the Maryland Authorized UST Management Program became requirements of Subtitle I of RCRA and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. The Maryland Authorized UST Management Program regulations are set forth in the Code of Maryland Regulations ("COMAR") Title 26, Subtitle 10, Chapters .02 - .11, and will be cited hereinafter as COMAR 26.10.02 *et seq.*

EPA has given the State of Maryland notice of the issuance of this action 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, an individual, is a "person" as defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR 26.10.02.04(40).
2. Respondent is, and at all times relevant to the allegations in this Complaint has been, an "owner" and/or "operator" as such terms are defined in Section 9001 of RCRA, 42 U.S.C.

§ 6991, and COMAR 26.10.02.04(39) and (37), of “underground storage tanks” (“USTs”) and “UST systems,” as such terms are defined in Section 9001 of RCRA, 42 U.S.C. § 6991, and COMAR 26.10.02.04(64) and (66), located at the Facility.

3. Pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991*d*(a), an owner or operator of USTs must furnish information relating to the USTs, their associated equipment and contents upon the request of a duly designated employee of EPA for the purpose of enforcing the provisions of Subtitle I of RCRA.

4. On July 16, 2018, a duly designated employee of EPA mailed Respondent a Request for Information letter issued pursuant to Section 9005(a) of RCRA, 42 U.S.C. § 6991*d*(a) (“Request for Information letter”). The Request for Information letter required Respondent to provide information relating to the USTs, their associated equipment and contents, at the Facility for the purpose of enforcing the provisions of the Maryland Authorized UST Management Program. The Request for Information letter was received by Respondent on July 17, 2018.

5. The Request for Information letter required Respondent to provide the requested information within fifteen (15) business days from the date of Respondent’s receipt of the letter. Respondent was thus required to provide the requested information by no later than August 7, 2018.

6. Having received no response, EPA sent Respondent a follow-up letter on August 15, 2018 regarding the outstanding Request for Information letter. The August 15, 2018 follow-up letter was received by Respondent on August 16, 2018.

7. As of the date of this Complaint, Respondent has not provided to EPA the information requested in the Request for Information letter.

8. From at least August 8, 2018 to the date of this Complaint, Respondent has violated Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a), by failing to provide a response to EPA's Request for Information letter.

III. COMPLIANCE ORDER

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

B. Respondent must submit its response in the following manner:

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

Melissa Toffel (3LC31)
United States Environmental Protection Agency, Region III
Land and Chemicals Division
1650 Arch Street
Philadelphia, PA 19103-2029

and

Jennifer M. Abramson (3RC50)
United States Environmental Protection Agency, Region III
Office of Regional Counsel
1650 Arch Street
Philadelphia, PA 19103-2029

(b) One copy to the Maryland Department of the Environment, by regular mail, to:

Tom Walter, Program Manager
Maryland Department of the Environment
Oil Control Program
Montgomery Park Business Center, Suite 620
1800 Washington Boulevard
Baltimore, MD 21230-1701

C. Respondent is hereby notified that failure to comply with any of the terms of this Compliance Order may subject it to the imposition of a civil penalty of up to

\$58,562 for each day of continued noncompliance, pursuant to Section 9006(a)(3) of RCRA, 42 U.S.C. § 6991e(a)(3); the Federal Civil Penalties Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, and most recently, by the Federal Civil Inflation Adjustment Act Improvement Act of 2015; and the Civil Monetary Penalty Inflation Adjustment Rule, 83 Fed. Reg. 1190, 1193 (January 10, 2018).

IV. 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 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. All material facts not admitted, explained or denied in the Answer will be considered as admitted.

Pursuant to 40 C.F.R. § 22.37(b), the Compliance Order in this Complaint automatically becomes a Final Order if a written Answer requesting a hearing is not filed within 30 days after receipt of this Complaint.

Any hearing requested by Respondent will be conducted in accordance with the provisions of the Consolidated Rules of Practice. 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:

Jennifer M. Abramson (3RC50)
United States Environmental Protection Agency, Region III
Office of Regional Counsel
1650 Arch Street
Philadelphia, PA 19103-2029

V. 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. 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 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 Jennifer M. Abramson, Senior Assistant Regional Counsel, at (215) 814-2066. 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.

VI. 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, Land and 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: 3.4.19



John A. Armstead, Director
Land and Chemicals Division

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

In the Matter of:)	
	)	Administrative Complaint, Compliance
Fiaz Munir	)	Order and Notice of Opportunity for
34099 Market Street	)	Hearing
Pocomoke City, MD 21851)	
	)	U.S. EPA Docket Number
RESPONDENT	)	RCRA-03-2019-0050
River Market)	
34099 Market Street	)	Proceeding Under Section 9006 of the
Pocomoke City, MD 21851	)	Resource Conservation and Recovery
	)	Act, as amended, 42 U.S.C. Section
	)	6991e
FACILITY.)	

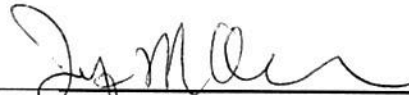
CERTIFICATE OF SERVICE

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 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 a true and correct copy of the Administrative Complaint, Compliance Order and Notice of Opportunity for Hearing, was sent by UPS Overnight mail, to:

Fiaz Munir
WAQAS Inc.
34097-99 Market Street
Pocomoke City, MD 21851

MAR 4 2019

Date



Jennifer M. Abramson
Senior Assistant Regional Counsel