



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II

2013 APR 16 P 3:46

CERTIFIED MAIL #
RETURN RECEIPT REQUESTED

REGIONAL HEARING
CLERK

APR 12 2013

Mr. Robert Armstrong, President
Virgin Islands Asphalt Products Corp
and EDA Trust
13H Estate Bethlehem
PO Box 1549, Kingshill
St Croix, U.S. Virgin Islands 00841-1549

RE: Notice of Proposed Assessment of a Civil Penalty
Docket No. CWA-02-2013-3802
Virgin Islands Asphalt Products Corp and the EDA Trust

St Croix, USVI

Dear Mr. Armstrong:

Enclosed is a document entitled "Administrative Complaint and Opportunity to Request Hearing and Conference" (hereinafter referred to as the "Complaint"). This Complaint has been issued against the Virgin Islands Asphalt Products Corp and the EDA Trust ("Respondents"), under the authority of §311(b)(6) of the Clean Water Act (Act), 33 U.S.C. §1321(b)(6). In the Complaint, the United States Environmental Protection Agency (EPA) alleges that Respondents, the Virgin Islands Asphalt Products Corp and EDA Trust facility, located at 13H Estate Bethlehem, St. Croix, U.S. Virgin Islands, have violated the Act. The alleged violations are set out under "Specific Claims" in the Complaint. The amount of the civil penalty proposed to be assessed is \$98,200.

For purposes of determining the amount of any penalty to be assessed, Section 311(b)(8) of the Act requires EPA to take into account the following factors: the seriousness of the violation or violations, the economic benefit to the violator, if any, resulting from the violation, the degree of culpability involved, any other penalty for the same incident, any history of prior violations, the economic impact of the penalty on the violator, and any other matters as justice may require. To develop the penalty proposed in the Complaint, EPA has taken into account the statutory factors with respect to the particular facts and circumstances of this case, to the extent known at this time.

By law, the Respondents have the right to request a hearing regarding the violations alleged in the Complaint and the proposed civil penalty. A request for a hearing must be contained in a written Answer to the Complaint. In accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits; Final Rule," (hereinafter "Consolidated Rules") (40 C.F.R. Part 22) (a copy of which is enclosed), the

Respondents must file a written Answer with the Regional Hearing Clerk within thirty (30) days of receipt of this Complaint if the Respondents contest any material fact upon which the Complaint is based, contend that the proposed penalty is inappropriate or contend they are entitled to judgment as a matter of law. If the Respondents do not file a timely Answer in accordance with the requirements specified in the Consolidated Rules, the Respondents may be found in default and the proposed civil penalty may be assessed without further proceedings. The Respondents have the right to be represented by an attorney, or to represent themselves, at any stage of these proceedings.

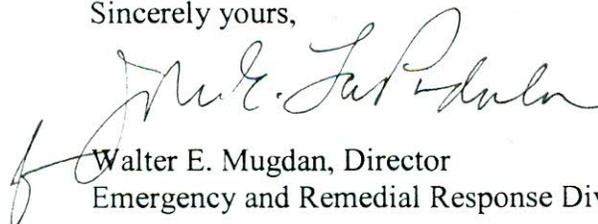
EPA encourages all parties against whom it files a Complaint to pursue settlement discussions with the Agency. Whether or not the Respondents request a formal hearing, the Respondents may request an informal conference with EPA to discuss the alleged violations and the proposed civil penalty. Specifically EPA invites information pertaining to the factors in Section 311(b)(8) of the Act. The penalty may be adjusted if the Respondents establish bona fide issues of ability to pay or other defenses relevant to the appropriate amount of the proposed penalty. The Respondents may represent themselves or be represented by an attorney at any conference, whether in person or by telephone. An attorney from the Agency's Office of Regional Counsel (ORC) will normally be present at any informal conference. Please be advised that any informal conferences conducted in person with Agency officials will be held in New York City or in Edison, New Jersey. Please also be advised that a request for an informal conference does not substitute for a written Answer nor does it extend the period of time (thirty days) within which you must file an Answer and request a hearing.

If a mutually satisfactory settlement can be reached, it will be formalized by the issuance of a Consent Agreement and Order signed by you and by the Regional Administrator, EPA Region 2. The issuance of such a Consent Agreement and Order shall constitute a waiver by the Respondents of their right to a hearing on, and to a judicial appeal of, the agreed upon civil penalty. If you have any questions or wish to discuss the possibility of settlement of this matter, please contact:

Melva J. Hayden, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway - 16th Floor
New York, New York 10007-1866
Telephone: (212) 637-3230

We urge your prompt attention to this matter.

Sincerely yours,



Walter E. Mugdan, Director
Emergency and Remedial Response Division

Enclosures

cc: K. Maples, Regional Hearing Clerk

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2013 APR 16 P 3:47
REGIONAL HEARINGS
CLERK

IN THE MATTER OF

Virgin Islands Asphalt Products
Corp. and EDA Trust
13 H Estate Bethlehem
PO Box 1549, Kingshill
St Croix, US Virgin Islands 00841-
1549

Respondents

Proceeding Pursuant to §311(b)(6)
of the Clean Water Act, 33 U.S.C.

Proceeding to Assess Class II Civil
Penalty Under Section 311(b)(6) of
the Clean Water Act

Docket No. CWA-02-2013-3802

COMPLAINT
FINDINGS OF VIOLATION, NOTICE OF PROPOSED
ASSESSMENT OF A CIVIL PENALTY, AND
NOTICE OF OPPORTUNITY TO REQUEST A HEARING

I. Statutory Authority

1. This Complaint, Findings of Violation, Notice of Proposed Assessment of a Civil Penalty, and Notice of Opportunity to Request a Hearing (“Complaint”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 311(b) (6) (B) (ii) of the Clean Water Act (“Act”), 33 U.S.C. §1321(b) (6) (B) (ii). The Administrator has delegated this authority to the Regional Administrator of EPA, Region 2”, who in turn has delegated it to the Director, Emergency and Remedial Response Division (“ERRD”) of EPA, Region 2 (“Complainant”).
2. Pursuant to Section 311(b) (6) (B)(ii) of the Act, and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits” (“CROP”), codified at 40 CFR Part 22 (APart 22”), a copy of which is attached, Complainant hereby requests that

the Regional Administrator assess a civil penalty against Virgin Islands Asphalt Products Corp and EDA Trust (“Respondents”) for the failure or refusal to comply with regulations issued under Section 311(j) of the Act, 33 U.S.C. §1321(j), and other provisions of the Act [33 U.S.C. §§1251], and gives notice of Respondents' opportunity to file an Answer to this Complaint and to request a hearing on the proposed penalty assessment.

II. Findings of Violation

JURISDICTIONAL ALLEGATIONS

1. The Respondents are a corporation and a Trust with places of business located at 13 H Estate Bethlehem, St. Croix, USVI, 00841-1549 and 1 Estate Shoys, Christiansted, St. Croix, USVI 00820. The Respondents are persons within the meaning of Section 311(a)(7) of the Act, 33 U.S.C. §1321(a)(7) and 40 CFR §112.2.
2. The Respondents are the owners and/or operators within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. §1321(a)(6), and 40 CFR §112.2, of an oil storage facility location at Bethlehem Middle Works, 13 H Estate Bethlehem, St Croix, USVI 00841, and a South Shore location at Plot 3A, Limetree Bay, St. Croix, USVI 00841 (“the Facility” or “the premises”), that as referenced by 40 CFR 112.2, is a transportation-related facility according to the definition set forth in 40 CFR Part 112, Appendix A, §II, and initially published at 36 Fed. Reg. 24,080 (December 18, 1971).
3. The Respondents are engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing or consuming oil or oil products located at the Facility.
4. The Facility is an onshore facility within the meaning of 40 CFR §112.2 that, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters or adjoining shorelines of the United States, within the meaning of Section 311(j)(5)(B)(iii) of the Act, 33 U.S.C. §1321(j)(5)(B)(iii), and Appendix C to 40 CFR Part 112, and is subject to the facility response plan (“FRP” or “response plan”) submission requirements of 40 CFR §112.20 (“an FRP facility”).
5. The Krause Lagoon Channel and the Caribbean Sea are navigable waters of the United States within the meaning of Section 502(7) of the Act, 33 U.S.C. §1362(7) and 40 C.F.R. §110.1.

6. Section 311(j)(5)(A) of the Act, 33 U.S.C. § 1321(j)(5)(A), provides that the President shall issue regulations requiring each owner or operator of an FRP facility to “submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance.”
7. By Section 2(d)(1) of Executive Order 12777 (October 18, 1991), the President delegated to the Administrator of EPA the authorities under Section 311(j) of the Act that are described in this Complaint.
8. The Administrator of EPA promulgated regulations, codified at 40 CFR §112.20 and §112.21, implementing these delegated statutory authorities.
9. Pursuant to Section 311(j)(5), 33 U.S.C. §1321(j)(5), and 40 CFR §§112.1 and 112.20, the Facility is therefore subject to the requirements of 40 CFR §112.20 and §112.21.

SPECIFIC CLAIMS

1. Pursuant to 40 CFR §112.20(h)(8), the response plan shall include logs of discharge prevention meetings, training sessions and drills/exercises which are to be maintained as an annex to the response plan.
2. During a FRP field inspection conducted at the Respondents’ facility by EPA on January 24, 2012 EPA determined the Respondents did not have drill/exercise logs and/or training session logs included with the response plan, in violation of 40 CFR §112.20(h)(8) (See Attachment A of the Field Inspection Report, attached hereto and incorporated herein).
3. Pursuant to 40 CFR §112.21(b), the owner or operator of an FRP facility shall develop and implement a facility response training program to train those personnel involved in oil spill response activities, and shall be responsible for the proper instruction of facility personnel in the procedures to respond to discharges of oil, and in applicable oil spill response laws, rules and regulations.
4. During a FRP field inspection conducted at the Respondents’ premises by EPA on January 24, 2012 EPA determined the Respondents did not develop and implement a facility response training program to train those personnel involved in oil spill response activities, in violation of 40 CFR §112.21(b). (See Attachment B of the Field Inspection Report, attached hereto and incorporated herein).

5. Pursuant to 40 CFR §112.21(c), the owner or operator of an FRP facility shall develop a program of facility response drills/exercises, including evaluation procedures.
6. During a FRP field inspection conducted at the Respondents' facility by EPA on January 24, 2012, EPA determined the Respondents did not develop a program of facility response drills/exercises, including evaluation procedures, in violation of 40 CFR §112.21(c). (See Attachment C of the Field Inspection Report, attached hereto and incorporated herein).
7. Pursuant to Appendix E Section 3.0 of 40 CFR Part 112, a discharge of 2100-gallons or less is a small discharge and for small discharges, the following response resources are required:
 - a. One thousand feet of containment boom, and a means of deploying it within one hour of the discovery of a spill.
 - b. Deployment of oil recovery devices within two hours of the discovery of a spill.
8. During a government-initiated unannounced exercise at the Respondents' premises conducted by EPA on January 24, 2012, EPA determined the Respondents were unable to provide a means to deploy 1,000 feet of containment boom within a one hour period and were unable to deploy oil recovery devices within a two hour period, as required by Appendix E Section 3.0 of 40 CFR Part 112, in violation of 40 CFR §112.20(h)(3). (See Attachment D of the Field Inspection Report, attached hereto and incorporated herein).
9. Pursuant to 40 CFR §112.20(h), the owner or operator of an FRP facility shall submit a plan that either:
 - a. Follows the format of the model facility-specific response plan included in Appendix F to 40 CFR Part 112; or,
 - b. Is an equivalent response plan that meets State or other Federal requirements, which includes an emergency response action plan pursuant to 40 CFR §112.20(h)(1), addresses all the elements listed in 40 CFR §112.20(h)(2-10), and provides a cross-reference section to identify the location of these elements.
10. In January 2012, EPA reviewed the Respondents' FRP and determined the Respondents submitted an FRP that failed to meet the requirements of the

preceding paragraph, in violation of 40 CFR §112.20(h) (See Attachment D of the Field Inspection Report, attached hereto and incorporated herein).

CLAIM FOR RELIEF

1. Complainant realleges and incorporates by reference the allegations in Paragraphs 1 through 10 in Specific Claims section above.
2. As alleged in Paragraph 2 of the Specific Claims section above, Respondents' failure to have drill/exercise logs and/or training session logs included with the response plan, as required in 40 CFR §112.2(h)(8), violated regulations issued under Section 311(j) of the Act. Pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR §19.4 (Table 1), the Respondents are liable for civil penalties of up to \$11,000 per day for each day during which the violation continues, up to a maximum of \$177,500.
3. As alleged in Paragraph 4 of the Specific Claims section above, Respondents' failure to develop and implement a facility response training program to train those personnel involved in oil spill response activities, as required in 40 CFR §112.21(b) violated regulations issued under Section 311(j) of the Act. Pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR §19.4 (Table 1), the Respondents are liable for civil penalties of up to \$11,000 per day for each day during which the violation continues, up to a maximum of \$177,500.
4. As alleged in Paragraph 6 of the Specific Claims section above, Respondents' failure to develop a program of facility response drills/exercises, including evaluation procedures, as required in 40 CFR §112.21(c) violated regulations issued under Section 311(j) of the Act. Pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR §19.4 (Table 1), the Respondents are liable for civil penalties of up to \$11,000 per day for each day during which the violation continues, up to a maximum of \$177,500.
5. As alleged in Paragraph 8 of the Specific Claims section above, Respondents' failure to provide a means to deploy 1,000 feet of containment boom within a one hour period and failure to provide a means to deploy oil recovery devices within a two hour period, as required by Appendix E Section 3.0 of 40 CFR Part 112 and 40 CFR § 112.20(h)(3), violated regulations issued under Section 311(j) of the Act. Pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR § 19.4 (Table 1), the Respondents are liable for civil penalties of up to \$11,000 per day for each day during which the violation continues, up to a maximum of \$177,500.
6. As alleged in Paragraph 10 of the Specific Claims section above,

Respondents' failure to submit an FRP that follows the format of the model facility-specific response plan included in Appendix F to 40 CFR Part 112, or, is an equivalent response plan that meets State or other Federal requirements, and includes an emergency response action plan pursuant to 40 CFR §112.20(h)(1) as well as a cross-reference section to identify the location of elements listed in 40 CFR §112.20(h)(2-10), as required by 40 CFR §112.20(h), violated regulations issued under Section 311(j) of the Act. Pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR §19.4 (Table 1), the Respondents are liable for civil penalties of up to \$11,000 per day for each day during which the violation continues, up to a maximum of \$177,500.

III. Notice of Proposed Order Assessing a Civil Penalty

Based on the foregoing Findings of Violation, and pursuant to the authority of Section 311(b)(6)(B)(ii) the Act, 33 U.S.C. §1321(b)(6)(B)(ii), and the Debt Collection Improvement Act of 1996, EPA, Region 2 hereby proposes, subject to receipt and evaluation of further relevant information, to issue a Final Order Assessing Administrative Penalties ("Final Order") to Respondents assessing a civil penalty of **Ninety-six Thousand Eight Hundred Dollars (\$96,800)**. EPA determined the proposed penalty after taking into account the applicable factors identified at Section 311(b)(8) of the Act, 33 U.S.C. §1321(b)(8). These are: the seriousness of the violations, the economic benefit to the violator, if any, resulting from the violations, the degree of culpability involved, any other penalty for the same incident, any history of prior violations, the economic impact of the penalty on the violator, and any other factors as justice may require.

To develop the proposed penalty in this Complaint, Complainant has taken into account the particular facts and circumstances of this case, to the extent known to Complainant at the time of this Complaint.

IV. Procedures Governing This Administrative Litigation

The rules of procedure governing this civil administrative litigation have been set forth in the CROP, which have been codified at 40 CFR Part 22. A copy of these rules accompanies this Complaint.

A. Answering The Complaint

Where Respondents intend to contest any material fact upon which the Complaint is based, to contend that the proposed penalty is inappropriate or to contend that

Respondents are entitled to judgment as a matter of law, Respondents must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written answer to the Complaint, and such Answer must be filed within thirty (30) days after service of the Complaint. 40 CFR § 22.15(a). The address of the Regional Hearing Clerk of EPA, Region 2, is:

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

Respondents shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. 40 CFR §22.15(a). Respondents' Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which Respondents have any knowledge. 40 CFR §22.15(b). Where Respondents lack knowledge of a particular factual allegation and so states in the Answer, the allegation is deemed denied. 40 CFR §22.15(b). The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense, (2) the facts that Respondents dispute (and thus intend to place at issue in the proceeding), (3) the basis for opposing the proposed relief and (4) whether Respondents request a hearing. 40 CFR §22.15(b).

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

B. Opportunity To Request A Hearing

If requested by Respondents in the Answer, a hearing upon the issues raised by the Complaint and Answer may be held. 40 CFR §22.15(c). If, however, Respondents do not request a hearing, the Presiding Officer (as defined in 40 CFR §22.3) may hold a hearing if the Answer raises issues appropriate for adjudication. 40 CFR §22.15(c).

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

Should Respondents request a hearing on this proposed penalty assessment, members of the public, to whom EPA is obligated to give notice of this proposed action, will have

a right under Section 311(b)(6)(C)(ii) of the Act, 33 U.S.C. §1321(b)(6)(C)(ii), to be heard and to present evidence on the appropriateness of the penalty assessment. Should Respondents not request a hearing, EPA will issue a Final Order, and only members of the public who submit timely comment on this proposal will have an additional thirty (30) days to petition EPA to set aside the Final Order and to hold a hearing thereon. EPA will grant the petition and will hold a hearing only if the petitioner's evidence is material and was not considered by EPA in the issuance of the Final Order.

C. Failure To Answer

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

Any penalty assessed in the default order shall become due and payable by Respondents without further proceedings 30 days after the default order becomes final pursuant to 40 CFR §22.27(c). 40 CFR §22.17(d). If necessary, EPA may then seek to enforce such final order of default against Respondents, and to collect the assessed penalty amount, in federal court.

V. Informal Settlement Conference

Whether or not Respondents request a formal hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. 40 CFR §22.18(b). At an informal conference with a representative(s) of Complainant, Respondents may comment on the charges made in this Complaint, and Respondents may also provide whatever additional information that Respondents believe is relevant to the disposition of this matter, including: (1) actions Respondents have taken to correct any or all of the violations herein alleged, (2) any information relevant to Complainant's calculation of the proposed penalty, (3) the effect the proposed penalty would have on Respondents' ability to continue in business and/or (4) any other special facts or circumstances Respondents wish to raise.

Complainant has the authority to modify the amount of the proposed penalty,

where appropriate, to reflect any settlement agreement reached with Respondents, to reflect any relevant information previously not known to Complainant or to dismiss any or all of the charges, if Respondents can demonstrate that the relevant allegations are without merit and that no cause of action as herein alleged exists. Respondents are referred to 40 CFR §22.18.

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

Melva J. Hayden, , Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866
(212) 637-3230

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

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

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

Respondents' entering into a settlement through the signing of such Consent Agreement and Respondents' complying with the terms and conditions set forth in such Consent Agreement terminate this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint. Respondents' entering into a settlement does not extinguish, waive, satisfy or otherwise affect Respondents' obligation and responsibility to

comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

VI. Resolution of this Proceeding Without Hearing or Conference

If you wish to settle this matter without hearing, you may, subject to the provisions of 40 CFR § 22.18(a)(1), either (1) file an Answer to this Complaint and subsequently pay the full penalty requested within 60 days, or (2) within 30 days of your receipt of this Complaint file a written statement with the Regional Hearing Clerk at the address provided below agreeing to pay, and subsequently pay within 60 days of your receipt of this Complaint, the full penalty.

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

In either case, your payment shall be made by a cashier's or certified check, or by an electronic funds transfer (EFT). If you are paying by check, pay the check to "Environmental Protection Agency," noting on the check "OSTLF-311" and docket number "CWA-02-2013-3802". If you use the U.S. Postal Service, address the payment to "U.S. Environmental Protection Agency, Fines & Penalties, CFC," PO Box 979077, St Louis, MO 63197-9000.

Pursuant to 40 CFR §22.18(a)(3), if Respondents elect to pay the full amount of the penalty proposed in the Complaint within 30 days of receiving the Complaint, then, upon EPA's receipt of such payment, the Regional Administrator of EPA, Region 2 (or, if designated, the Regional Judicial Officer), shall issue a Final Order in accordance with 40 CFR §22.18(a)(3). In accordance with 40 CFR §22.45(c)(3), no Final Order shall issue until at least ten (10) days after close of the public comment period on this Complaint. Issuance of a Final Order terminates this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint. Further, pursuant to 40 CFR §22.18(a)(3), the making of such payment by Respondents shall constitute a waiver of Respondents' right both to contest the allegations made in the Complaint and to appeal said Final Order to federal court. Such payment does not extinguish, waive, satisfy or otherwise affect Respondents' obligation and responsibility to comply with all applicable regulations and requirements, and to maintain such compliance.

VII. Filing of Documents

1. The Answer and any Hearing Request and all subsequent documents filed in this action should be sent to:

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

2. A copy of the Answer, any Hearing Request and all subsequent documents filed in this action shall be sent to:

Melva J. Hayden, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency - Region 2
290 Broadway, 16th Floor
New York, New York 10007-1866
(212) 637-3230

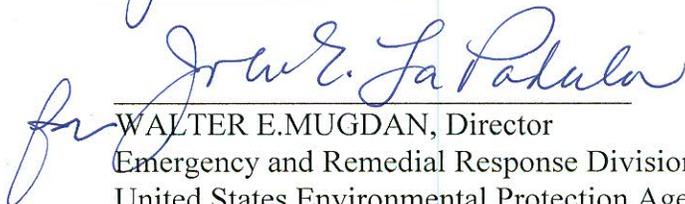
VIII. General Provisions

1. Respondents have a right to be represented by an attorney at any stage of these proceedings.

2. This Complaint does not constitute a waiver, suspension or modification of the requirements of the Act or regulations promulgated thereunder.

3. Neither assessment nor payment of an administrative civil penalty pursuant to Section 311(b)(6) of the Act will affect Respondents' continuing obligation to comply with the Act, and with any regulations promulgated, or orders issued, pursuant thereto.

ISSUED THIS 12 DAY OF April, 2013.


WALTER E. MUGDAN, Director
Emergency and Remedial Response Division
United States Environmental Protection Agency
Region 2

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

-----X
IN THE MATTER OF :
Virgin Islands Asphalt Products Corp :
and EDA Trust :
13 H Estate Bethlehem PO Box 1549 : Proceeding to Assess Class II
St Croix, USVI 00841-1549 : Civil Penalty Under Section 311(b)(6)
Respondents. : of the Clean Water Act
:
:
Proceeding Pursuant to §311(b)(6) of the : Docket No.
Clean Water Act, 33 U.S.C. §1321(b)(6) : CWA-02-2013-3802
-----X

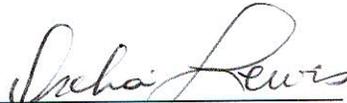
CERTIFICATE OF SERVICE

I certify that, on the date noted below, I caused to be mailed, by certified mail, return receipt requested, a copy of the foregoing "ADMINISTRATIVE COMPLAINT" and a copy of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," (64 *Federal Register* 40176 *et seq.*, July 23, 1999) to the following person at the address listed below:

Mr. Robert Armstrong, President
Virgin Islands Asphalt Products Corp
and Elizabeth Armstrong, President
EDA Trust c/o
PO Box 1549, Kingshill
St Croix, USVI 00841-1549

I [hand carried / mailed] the original and a copy of the foregoing Complaint to the office of the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Date: April 16, 2013
New York, New York


[Signature of Sender]

ATTACHMENT A

Virgin Islands Asphalt Products Corp St Croix, USVI

JANUARY 24, 2012 FACILITY RESPONSE PLAN FIELD INSPECTION

- QI Notification Exercises were not performed and/or the logs are not being maintained.
(§ 1.8.2 - Appendix F – Model Facility Specific Response Plan)
(40 CFR § 112.21(c) – Facility Response Training and Drills/Exercises)
- Spill Management Team Tabletop Exercises were not performed and/or the logs are not being maintained.
(§ 1.8.2 - Appendix F – Model Facility Specific Response Plan)
(40 CFR § 112.21(c) – Facility Response Training and Drills/Exercises)
- Oil Spill Removal Organization Equipment Deployment Exercise Logs were not maintained.
(§ 1.8.2 - Appendix F - Model Facility Specific Response Plan)
- Unannounced Exercises were not performed and/or the logs are not being maintained.
(§ 1.8.2 - Appendix F – Model Facility Specific Response Plan)
(40 CFR § 112.21(c) – Facility Response Training and Drills/Exercises)
- Personnel Response Training was not performed and/or the logs are not being maintained.
(§ 1.8.3 - Appendix F – Model Facility Specific Response Plan)
(40 CFR § 112.21(b) – Facility Response Training and Drills/Exercises)
- Discharge Prevention Meetings were not performed and/or the logs are not being maintained.
(§ 1.8.3 - Appendix F – Model Facility Specific Response Plan)
(40 CFR § 112.7(f)(3) – Personnel, Training and Discharge Prevention Procedures)
- Tank & Secondary Containment Inspections are not being performed and/or the logs are not being maintained. (§ 1.8.1 - Appendix F – Model Facility Specific Response Plan)
(40 CFR § 112.20(8) – Self-inspection, drills/exercises, and response training)

ATTACHMENT B

Virgin Islands Asphalt Products Corp St Croix, USVI

JANUARY 24, 2012 FACILITY RESPONSE PLAN FIELD INSPECTION

- Respondent did not demonstrate good working knowledge of its contracts and how to contact its contractors.
- Contractors' response times were unacceptable according to the Appendix E Response Resource Requirements of a 1 and 2 hour response times for a small discharge scenario and the National Preparedness for Response Exercise Program Guidelines (PREP).
- Containment boom never arrived on-site and therefore was not successfully deployed.
- Oil recovery devices never arrived on-site and therefore the simulation of the oil recovery was not successful.
- Tank & Secondary Containment Inspections are not being performed and/or the logs are not being maintained.
(§ 1.8.1 - Appendix F – Model Facility Specific Response Plan)
(40 CFR § 112.20(8) – Self-inspection, drills/exercises, and response training)
- QI Notification Exercises were not performed and/or the logs are not being maintained.
(§ 1.8.2 - Appendix F – Model Facility Specific Response Plan)
(40 CFR § 112.21(c) – Facility Response Training and Drills/Exercises)
- Spill Management Team Tabletop Exercises were not performed and/or the logs are not being maintained.
(§ 1.8.2 - Appendix F – Model Facility Specific Response Plan)
(40 CFR § 112.21(c) – Facility Response Training and Drills/Exercises)
- Oil Spill Removal Organization Equipment Deployment Exercise Logs were not maintained.
(§ 1.8.2 - Appendix F- Model Facility Specific Response Plan)
- Unannounced Exercises were not performed and/or the logs are not being maintained.
(§ 1.8.2 - Appendix F – Model Facility Specific Response Plan)
(40 CFR § 112.21(c) – Facility Response Training and Drills/Exercises)
- Personnel Response Training was not performed and/or the logs are not being maintained.
(§ 1.8.3 - Appendix F – Model Facility Specific Response Plan)
(40 CFR § 112.21(b) – Facility Response Training and Drills/Exercises)
- Discharge Prevention Meetings were not performed and/or the logs are not being maintained.
(§ 1.8.3 - Appendix F – Model Facility Specific Response Plan)
(40 CFR § 112.7(f)(3) – Personnel, Training and Discharge Prevention Procedures)
- Evidence of current Contract with NRC is not maintained.
(§ 112.2 - Definitions – Contract or Other Approved Means)
(§ 112.20(h)(3)(ii) – Information about Emergency Response)

ATTACHMENT C

Virgin Islands Asphalt Products Corp St Croix, USVI

JANUARY 24, 2012 FACILITY RESPONSE PLAN FIELD INSPECTION

- Respondent did not demonstrate good working knowledge of their contracts and how to contact their contractors.
- Contractors' response times were unacceptable according to the Appendix E Response Resource Requirements of a 1 and 2 hour response times for a small discharge scenario and the National Preparedness for Response Exercise Program Guidelines (PREP).
- Containment boom never arrived on-site and therefore was not successfully deployed.
- Oil recovery devices never arrived on-site and therefore the simulation of the oil recovery was not successful.
- Tank & Secondary Containment Inspections are not being performed and/or the logs are not being maintained.
(§ 1.8.1 - Appendix F – Model Facility Specific Response Plan)
(40 CFR § 112.20(8) – Self-inspection, drills/exercises, and response training)
- QI Notification Exercises were not performed and/or the logs are not being maintained.
(§ 1.8.2 - Appendix F – Model Facility Specific Response Plan)
(40 CFR § 112.21(c) – Facility Response Training and Drills/Exercises)
- Spill Management Team Tabletop Exercises were not performed and/or the logs are not being maintained.
(§ 1.8.2 - Appendix F – Model Facility Specific Response Plan)
(40 CFR § 112.21(c) – Facility Response Training and Drills/Exercises)
- Oil Spill Removal Organization Equipment Deployment Exercise Logs were not maintained.
(§ 1.8.2 - Appendix F - Model Facility Specific Response Plan)
- Unannounced Exercises were not performed and/or the logs are not being maintained.
(§ 1.8.2 - Appendix F – Model Facility Specific Response Plan)
(40 CFR § 112.21(c) – Facility Response Training and Drills/Exercises)
- Personnel Response Training was not performed and/or the logs are not being maintained.
(§ 1.8.3 - Appendix F – Model Facility Specific Response Plan)
(40 CFR § 112.21(b) – Facility Response Training and Drills/Exercises)
- Discharge Prevention Meetings were not performed and/or the logs are not being maintained.
(§ 1.8.3 - Appendix F – Model Facility Specific Response Plan)
(40 CFR § 112.7(f)(3) – Personnel, Training and Discharge Prevention Procedures)
- Evidence of current Contract with NRC is not maintained.
(§ 112.2 - Definitions – Contract or Other Approved Means)
(§ 112.20(h)(3)(ii) – Information about Emergency Response)

ATTACHMENT D

Virgin Islands Asphalt Products Corp St Croix, USVI

JUNE 2012 FACILITY RESPONSE PLAN REVIEW

The items listed below were omitted or determined to be inadequate in the above Facility Response Plan as submitted to EPA Region 2. All references in parenthesis following each item corresponds to the appropriate section of Appendix F of the FRP rules. Please refer to Appendix F for further explanation and examples of each item.

FRP: 0200605

Company Name: VIAPCO

Facility Name: Bethlehem Middle Works

Deficiencies

Section 1.1 - Emergency Response Action Plan

The Emergency Response Action Plan does not adequately address the following (Section 1.1):

- Response Equipment List with Locations (Section 1.3.2)
~ Facility list does not include all appropriate response equipment and the OSRO equipment list was not referenced/provided.
- Response Equipment Testing and Deployment Information/Drill Log and/or Procedures (Section 1.3.3)
- Evacuation Plan (Section 1.3.5)
- Facility Diagrams (Section 1.9)
~ Refer to appropriate Sections (1.3.2, 1.3.3, 1.3.5, 1.9) below for deficiency details.

Section 1.2 - Facility Information

Facility Information did not address/provide the following (Section 1.2):

- Qualified Individual Information (specific response training experience). [Section 1.2.5]
- Current Operations and NASICS code. [1.2.7]
~ Sections 1.2.1 and 1.2.2 were in the ERAP but not the FRP portion of the Plan. Provide appropriate cross reference.

Section 1.3 - Emergency Response Information

Emergency Notification Phone List does not adequately address/include the following (Section 1.3.1):

- Date. ~ Line should be blank for future use.
- Owner name. ~ Listed as EDA Trust, but elsewhere in the FRP states VIAPCO as an owner.
- Date and Time of Each NRC Notification. ~ Line should be blank for future use and/or reference location of previous NRC notifications.
- Company response team names.

- Local response team (fire dept./cooperatives). ~ Facility numbers are listed.
- Local Emergency Planning Committee (LEPC).
- Spill response contractor's evidence of contracts (or equivalent). ~ Full contracts were not provided.
- Spill Response Notification Form was not adequately addressed. (Section 1.3.1)
~ Information was included in the ERAP but not the FRP portion of the Plan. Provide appropriate cross reference.

Response Equipment List with Locations does not adequately address/provide the following (Section 1.3.2):

- Boats/motors and the specific equipment resources.
- The amount of oil that emergency response equipment can handle and any limitations (e.g., launching sites).
- ~ Information was included in the ERAP but not the FRP portion of the Plan. Provide appropriate cross reference.

Response Equipment Testing and Deployment Information/Drill Log does not adequately address/provide the following (Section 1.3.3):

- Date of last inspection or response equipment test.
- Inspection frequency.
- Date of last deployment.
- Deployment frequency.
~ The information was included in the ERAP but not the FRP portion of the Plan. Provide appropriate cross reference.
- Oil Spill Removal Organization Certification.
- Response Personnel Information did not adequately address the following (Section 1.3.4):
- Facility response personnel response times, responsibilities and training..
- Evidence of current contracts/agreements or spill co-op membership. ~ Full contracts are not provided.
~ Some information was located in the ERAP but not the FRP portion of the Plan. Provide appropriate cross reference.

Facility's Evacuation Plan did not adequately address/provide the following (Section 1.3.5):

- Hazards imposed by the spilled material. [Section 1.3.5.1(2)]
- Spill flow direction(s). [Section 1.3.5.1(3)]
- Location of alarm/notification systems. [Section 1.3.5.1(10)]
- Check-in area for evacuation validation (roll-call). [Section 1.3.5.1(11)]
- Location of shelter. [Section 1.3.5.1(13)]
- Evacuation routes (reference to Section 1.9). [Section 1.3.5.1(7)]
~ The information was located in the ERAP, but not the FRP portion of the Plan. Provide appropriate cross reference.
- Qualified Individual's Duties (Section 1.3.6)
~ The information was located in the ERAP, but not the FRP portion of the Plan. Provide appropriate cross reference.

Section 1.4 - Hazard Evaluation

Hazard Identification did not adequately address/provide the following (Section 1.4.1):

- Maximum capacities of tanks. [Section 1.4.1(3)(e)] ~ Stated as 426,744 gallons which is inconsistent with the 336,000 gallons in Section 2.0 and 456,187 gallons in 11/17/11 update. ~ Ten tanks are listed which is inconsistent with the number of tanks in Section 2.0. The volume of the largest tank is listed as 336,000 gallons which is inconsistent with 333,000 gallons stated in Section 2.0.
- Labeled schematic drawing. [Section 1.4.1(4)] ~ Not referenced.
- Transfer operations, which pose a risk of discharge. [Section 1.4.1(5)(a)] ~ Very brief and incomplete description.
- Daily operations with estimated volume of material, which pose a risk of discharge. [Section 1.4.1(5)(b)]
- Secondary containment was not identified for each tank area. [Section 1.4.1(5)(c)]
- Normal daily throughput. [Section 1.4.1(5)(d)]

Vulnerability Analysis did not adequately address the following (Section 1.4.2):

- Planning distance calculations as per Attachment C-III (Appendix C). ~ Inaccurate cross reference.
- Wetlands or other sensitive environments. [Section 1.4.2(6)]
- Fish and wildlife. [Section 1.4.2(7)]

Analysis of the Potential for an Oil Spill did not address the following (Section 1.4.3):

- Description of the probability of a release occurring.

Facility's Reportable Oil Spill History did not address the following (Section 1.4.4):

- Amount of discharge(s) in gallons. [Section 1.4.4(4)]
- Effectiveness and capacity of secondary containment. [Section 1.4.4(6)]
- Steps taken to reduce possibility of recurrence. [Section 1.4.4(8)]
- Total capacity of tanks/SI from which materials discharged. [Section 1.4.4(9)]
- Enforcement actions (if any). [Section 1.4.4(10)]
- Effectiveness of monitoring equipment. [Section 1.4.4(11)]
- Description(s) of how each oil spill was detected. [Section 1.4.4(12)]

Section 1.5 - Discharge Scenarios

Description of the Small Discharge Scenarios does not adequately address the following (Section 1.5.1):

- Facility maintenance. [Section 1.5.1.1(2)]
- Facility piping. [Section 1.5.1.1(3)]
- Pumping stations and sumps. [Section 1.5.1.1(4)]
- Vehicle refueling. [Section 1.5.1.1(6)]
- Age and condition of facility and components. [Section 1.5.1.1(7)]

Small discharge scenarios do not adequately consider the following factors (Section 1.5.1.2):

- Proximity to down gradient wells, waterways, and drinking water intakes. [Section 1.5.1.2(2)]
- Proximity to fish and wildlife and sensitive environments. [Section 1.5.1.2(3)]
- Location of the material spilled (on soil, concrete, asphalt). [Section 1.5.1.2(5)]
- Weather or aquatic conditions (river flow, water body surface area). [Section 1.5.1.2(7)]
- Available remediation equipment. [Section 1.5.1.2(8)]

- Direction of spill pathway. [Section 1.5.1.2(10)]
~ Provide appropriate cross reference(s).

Description of the Medium Discharge Scenarios does not adequately address the following (Section 1.5.1):

- Loading and unloading operations. [Section 1.5.1.1(1)] ~ Overwater transfers not discussed.
- Facility maintenance. [Section 1.5.1.1(2)]
- Facility piping. [Section 1.5.1.1(3)]
- Pumping stations and sumps. [Section 1.5.1.1(4)]
- Vehicle refueling. [Section 1.5.1.1(6)]
- Age and condition of facility and components. [Section 1.5.1.1(7)]

Medium discharge scenarios do not adequately consider the following factors (Section 1.5.1.2):

- Proximity to down gradient wells, waterways, and drinking water intakes. [Section 1.5.1.2(2)]
- Proximity to fish and wildlife and sensitive environments. [Section 1.5.1.2(3)]
- Location of the material spilled (on soil, concrete, asphalt). [Section 1.5.1.2(5)]
- Weather or aquatic conditions (river flow, water body surface area). [Section 1.5.1.2(7)]
- Available remediation equipment. [Section 1.5.1.2(8)]
- Direction of spill pathway. [Section 1.5.1.2(10)]
~ Provide appropriate cross reference(s).

Description of the Worst Case Discharge Scenarios does not address the following (Section 1.5.2):

- Worst case discharge volume calculation. ~ Listed as 27,880 gallons; inaccurate.
- Loading and unloading operations. [Section 1.5.1.1(1)]
- Facility maintenance. [Section 1.5.1.1(2)]
- Facility piping. [Section 1.5.1.1(3)]
- Pumping stations and sumps. [Section 1.5.1.1(4)]
- Oil storage location. [Section 1.5.1.1(5)]
- Vehicle refueling. [Section 1.5.1.1(6)]
- Age and condition of facility and components. [Section 1.5.1.1(7)]

Worst case discharge scenarios do not consider the following factors (Section 1.5.2.1):

- Size of discharge. [Section 1.5.2.1]
- Proximity to down gradient wells, waterways, and drinking water intakes. [Section 1.5.1.2(2)]
- Proximity to fish and wildlife and sensitive environments. (Section 1.5.1.2(3))
- Likelihood that the discharge would travel offsite. [Section 1.5.1.2(4)]
- Location of the material spilled (on soil, concrete, asphalt). [Section 1.5.1.2(5)]
- Material discharged. [Section 1.5.1.2(6)]
- Weather or aquatic conditions (river flow, water body surface area). [Section 1.5.1.2(7)]
- Available remediation equipment. [Section 1.5.1.2(8)]
- Probability of a chain reaction of failures. [Section 1.5.1.2(9)]
- Direction of spill pathway. [Section 1.5.1.2(10)]

Section 1.6 - Discharge Detection Systems

Description of discharge detection procedures by facility personnel did not address the following (Section 1.6.1):

- Description of procedures and personnel for spill detection.
- Emergency response information needs to be referenced to Section 1.3.1.

Section 1.7 - Plan Implementation

Identification of response resources for small, medium, and worst case spills did not address the following (Section 1.7.1.1):

- Additional response training. [Section 1.7.1.1(2)]
- Ability to implement plan, including response training and practice drills. [Section 1.7.1.1(5)]

Response resources for a worst case discharge did not address the following (Section 1.7.1.1):

- Location of response resources capable of arriving onsite per each planning tier. [Refer to Appendix E, Section 5.3]
- Effective daily recovery capacities of response equipment determined using criteria in Appendix E, Section 6. [Appendix E, Section 5.4]

Facility's Disposal Plan did not adequately address the following (Section 1.7.2.1):

- Description of how and where the facility intends to recover, reuse, decontaminate or dispose of materials. ~ Only asphalt and RS-1 are discussed.
- Contaminated equipment and materials (drums, tank parts, valves, etc.). [Section 1.7.2.1(3)]
- PPE. [Section 1.7.2.1(4)]
- Decontamination solutions. [Section 1.7.2.1(5)]
- Absorbents. [Section 1.7.2.1(6)]
- Spent chemicals. [Section 1.7.2.1(7)]

Facility's Containment and Drainage Plan did not adequately address the following (Section 1.7.3):

- Available volume of containment (use the information presented in section 1.4.1). [Section 1.7.3(1)] ~ All containment areas were not discussed.
- A description of how the facility meets inspection and monitoring requirements for drainage. [40 CFR 112.8(b)] ~ Refers to inserted form but location was unclear.
-

Section 1.8 - Self-Inspection, Drills/Exercises, and Response Training

- A secondary containment inspection procedure or checklist was not provided. [Section 1.8.1.3)]
- Facility's Drill/Exercise Program (Section 1.8.2)
~ Note that records for this program must be maintained for five years.
- Facility's Drill/Exercise Program does not address the following (Section 1.8.2):
- Evaluation procedures. [Section 1.8.2(A)]
- Qualified Individual Notification Drill Log did not include: Time Table for Implementation. [Section 1.8.2.1]
- Equipment Deployment Exercise Log [Section 1.8.2(B)] ~ Not referenced.
- Unannounced Exercises Logs were not provided. [Section 1.8.2.(B)]
- FRP records must be maintained for five years.

Section 1.9 - Diagrams

The Facility Site Plan Diagram did not adequately address/include the following (Section 1.9(1)):

- Entire facility to scale. (Diagram needs to be legible.) [Section 1.9(1)(A)]
- ASTs and USTs. [Section 1.9(1)(B)] ~ Not all tanks appear to be identified.
- Capacities of tanks. [Section 1.9(1)(C)] ~ All tank capacities do not appear to be identified.
- Transfer areas. [Section 1.9(1)(G)]
- Secondary containment systems locations and capacities. [Section 1.9(1)(H)] ~ All do not appear to be identified.
- Locations where hazardous materials are stored or handled, including materials and capacity stored. [Section 1.9(1)(I)]

- Communication and emergency response equipment. [Section 1.9(1)(J)]
- Location of electrical equipment that contain oil. [Section 1.9(1)(K)]
- The interface(s) (i.e., valve or component) between the portion of the facility regulated by EPA and the portion(s) regulated by other Agencies. [Section 1.9(1)(L)]
 - ~ There oil storage areas and their location on the facility is unclear on the multiple maps provided.

The Facility Site Drainage Plan Diagram did not adequately address/include the following (Section 1.9(2)):

- Wires and shut-off valves. [Section 1.9(2)(B)]
- Surface water receiving streams. [Section 1.9(2)(C)]
- Fire fighting water sources. [Section 1.9(2)(D)]
- Response personnel ingress and egress. [Section 1.9(2)(F)] ~ Route not shown.
- Response equipment transportation routes. [Section 1.9(2)(G)] ~ Route not shown.
- Spill flow direction(s). [Section 1.9(2)(H)] ~ Not clearly defined.
 - ~ Text description provided, but information was not incorporated in the diagram.

The Facility's Site Evacuation Plan Diagram did not address the following (Section 1.9(3)):

- Evacuation routes. [Section 1.9(3)(A)] ~ Route not shown.
- Location of evacuation re-grouping areas. [Section 1.9(3)(B)]

Section 2.0 - Response Plan Cover Sheet

- The General Information on the Response Plan Cover Sheet needs to be updated/addressed. (Section 2.1)
- Latitude and Longitude. [Section 2.1(4)]
- Dun and Bradstreet Number, if applicable. [Section 2.1(5)]
- North American Industrial Classification System (NAICS). [Section 2.1(6)]
- Largest Oil Storage Tank Capacity (gallons). [Section 2.1(7)] ~ Stated as 333,000 gallons which is inconsistent with the Hazard Identification Table which states 336,000 gallons.
- Maximum Oil Storage Capacity. [Section 2.1(8)] ~ Stated as 336,000 gallons which is inconsistent with the Hazard Identification Table which states 426,744 gallons and 456,187 gallons stated in the 11/17/11 update.
- Number of Oil Storage Tanks. [Section 2.1(9)] ~ Stated as one which is inconsistent with the number of tanks on the Hazard Identification Table and the facility diagrams.
- Worst Case Discharge Amount (gallons). [Section 2.1(10)] ~ Stated as 79.06 bbl (3,320.5 gallons) which is inconsistent with the Hazard Identification Table which states the largest tank is 336,000 gallons.
- Facility Distance to Navigable Waters. [Section 2.1(11)]
- Certification completed after all other questions have been answered. [Section 2.3] ~ Not included in Section 2.0.
- OSRO contracts ~ Full contracts were not provided and certain required information (i.e., titles) is missing.
- The Plan has repeated sections throughout the FRP and ERAP which potentially causes confusion as to which is the most up to date information. Reviewed and updated as appropriate.
- The Facility has two parts; Bethlehem Middle Works and the South Shore Plant. This is not made clear in the FRP or on the figures.