



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

JUL 28 2017

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Article Number: 7016 0910 0000 4441 1617 7016 0910 0000 4441 1624

Mutasem Mustafa
58 Estate Glynn
Christiansted, St. Croix, VI 00850

Mutasem Mustafa
In and Out Service Station
P.O. Box 1497
Kingshill, St. Croix, VI 00851

Re: In and Out Service Station
Complaint, Compliance Order and Notice of Opportunity for Hearing
Docket Number RCRA-02-2017-7502

Dear Mr. Mustafa:

Enclosed is the Complaint, Compliance Order and Opportunity for Hearing in the above-referenced proceeding. The Complaint alleges violations of the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901 *et seq.*

You have the right to a formal hearing to contest any of the allegations in the Complaint and/or to contest the penalty proposed in the Complaint. If you wish to contest the allegations and/or the penalty proposed in the Complaint, you must file an Answer within *thirty (30)* days of your receipt of the enclosed Complaint with the Regional Hearing Clerk of the Environmental Protection Agency ("EPA"), Region 2, at the following address:

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

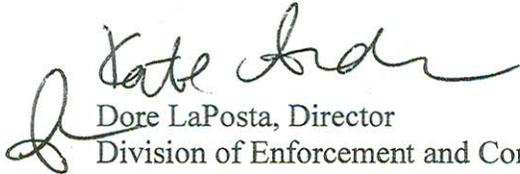
If you do not file an Answer within thirty (30) days of receipt of this Complaint and have not obtained a formal extension for filing an Answer from the Regional Judicial Officer of Region 2, a default order may be entered against you and the entire proposed penalty may be assessed. Whether or not you request a formal hearing, you may request an informal conference with EPA to discuss any issue relating to the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint to pursue the possibility of settlement and to have an informal conference with EPA. However, a request for an informal conference *does not* substitute for a written Answer, affect what you may choose to say in an Answer, or extend the thirty (30) days by which you must file an Answer requesting a hearing.

You will find enclosed a copy of the "Consolidated Rules of Practice," which govern this proceeding. (A brief discussion of some of these rules appears in the later part of the Complaint.)

EPA encourages the use of Supplemental Environmental Projects, where appropriate, as part of any settlement. I am enclosing a brochure on "EPA's Supplemental Environmental Projects Policy." Please note that these are only available as part of a negotiated settlement and are not available if this case has to be resolved by a formal adjudication.

If you have any questions or wish to schedule an informal conference, please contact the attorney whose name is listed in the Complaint.

Sincerely,



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

cc: Syed Syedali
Division of Environmental Protection
Virgin Islands Department of Planning & Natural Resources
45 Mars Hills, Frederiksted
St. Croix, VI-00841

Kerten Peters
UST Manager
Division of Environmental Protection
Virgin Islands Department of Planning & Natural Resources
#45 Mars Hill,
Frederiksted, VI 00840-4474

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

IN THE MATTER OF:

Mutasem Mustafa,

Respondent.

Proceeding Under Section 9006
of the Solid Waste Disposal Act,
as amended

COMPLAINT, COMPLIANCE ORDER
AND
NOTICE OF OPPORTUNITY FOR HEARING

DOCKET NO. RCRA-02-2017-7502

COMPLAINT

1. This is a civil administrative proceeding instituted pursuant to Section 9006 of the Solid Waste Disposal Act, as amended, 42 U.S.C. § 6901 et seq. (the "Act").
2. Complainant in this proceeding, Dore LaPosta, Director, Division of Enforcement and Compliance Assistance of the United States Environmental Protection Agency, Region 2 ("EPA"), has been duly delegated the authority to institute this action.
3. Respondent is Mr. Mutasem Mustafa operating a gas station under the name of In and Out Service Station (hereinafter "Mr. Mustafa" and/or "Respondent"). In and Out Service Station does not appear to be a corporation.
4. Mr. Mustafa is the owner and/or operator of In and Out Service Station, 58 Estate Glynn, Christiansted, St. Croix, United States Virgin Islands ("USVI") 00850, State Registration Number 0101004 (hereinafter the "In and Out Service Station").
5. In and Out Service Station, 58 Estate Glynn, Christiansted, St. Croix, USVI 00850, until July 31, 2015 was a licensed Gasoline Station, license number 2-27722-1L, issued by the Department of Licensing and Consumer Affairs, U.S. Virgin Islands.
6. Respondent is a "person" within the meaning of Section 9001(5) of the Act, 42 U.S.C. § 6991(5), and 40 C.F.R. § 280.12.

7. Respondent has been and remains the “owner” and/or “operator” of underground storage tank systems or “UST systems” as those terms are defined in Section 9001 of the Act, 42 U.S.C. § 6991, and 40 C.F.R. § 280.12 which are located at the address in paragraph 4, above.
8. Pursuant to 40 C.F.R. § 280.12, EPA is the “implementing agency” responsible for enforcing the requirements of the Act and the regulations promulgated pursuant thereto which are the subject of this Complaint.
9. Pursuant to Sections 2002, 9002, and 9003 of the Act, 42 U.S.C. §§ 6912, 6991a, and 6991b, EPA promulgated regulations setting forth requirements for owners and operators of UST systems, codified at 40 C.F.R. Part 280. These regulations include requirements related to release detection, record-keeping, upgrade requirements, temporary and permanent closure, and financial assurance.
10. Forty C.F.R. § 280.12 defines an “Underground storage tank” or “UST” as any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground.
11. Forty C.F.R. § 280.12 defines “Regulated substance” as: (a) Any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under subtitle C), and (b) Petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).
12. The term “regulated substance” includes but is not limited to petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.
13. Forty C.F.R. § 280.12 defines “Petroleum UST system” as an underground storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.
14. Section § 9005 of RCRA. 42 U.S.C. § 6991d provides, in relevant part, that “any owner or operator of an underground storage tank (or any tank subject to study under Section 9009 that is used for storing regulated substances) shall, upon request of any officer, employee or representative of the Environmental Protection Agency... furnish information relating to such tanks, their associated equipment, their contents”

15. Pursuant to 40 C.F.R. § 280.34, owners and operators of UST systems must cooperate fully with inspections by the implementing agency, as well as requests for document submission, testing, and monitoring by the owner or operator pursuant to Section 9005 of Subtitle I of RCRA.
16. Pursuant to 40 C.F.R. § 280.34(b)(4) owners and operators of UST systems must maintain certain information, including records of recent compliance with release detection requirements (40 C.F.R. § 280.45). Pursuant to 40 C.F.R. § 280.34(c) the records are required to be available for inspection by the implementing agency.
17. Pursuant to Section 9005 of RCRA, 42 U.S.C. Section 6991d, and 40 C.F.R. § 280.34, EPA issued a Notice of Violation and Request for Information (NOV/IRL), RCRA-UST-IR-13-032, on August 15, 2013, to Mr. Mustafa (at Farms Service Station, a predecessor of In and Out Service Station), and another party, Hughes Remy, president of the company Remy Service Station, Inc., previously located at the same address. This NOV/IRL was delivered to Mr. Mustafa (as indicated by U.S. Post Office tracking) on August 20, 2013. The IRL required a response within thirty (30) calendar days of receipt of the IRL, and a request for additional time to respond had to be submitted within ten (10) days of receipt of the letter.
18. EPA issued the August 15, 2013 NOV/IRL based on the history of alleged past violations and suspected releases following numerous inspections by both EPA and U.S. Virgin Islands, Department of Planning and Natural Resources (DPNR). The NOV/IRL stated that elevated levels of Total Petroleum Hydrocarbons had been detected at the facility and that an inspection by DPNR on September 5, 2012 found the release detection system at the facility was not operating. Based on the above, EPA asserted that there had been a suspected release from the USTs. The NOV/IRL also asserted that Respondent *inter alia*, had failed to comply with a consent agreement with DPNR and had failed to take required corrective action to remediate contamination of soils and groundwater at the site. The NOV/IRL requested the submission of a notification to EPA regarding the intent of In and Out Service Station's owners/operators to perform the corrective action. The NOV/IRL included documents if such owners/operators wanted to demonstrate an inability to pay for cleanup work. These documents were not returned to EPA.
19. Mr. Mustafa's response to the NOV/IRL issued on August 15, 2013 was due on or before September 15, 2013.
20. Mr. Mustafa failed to respond to the August 15, 2013 NOV/IRL.
21. Pursuant to Section 9005 of RCRA, 42 U.S.C. Section 6991d, and 40 C.F.R. § 280.34 EPA issued a second NOV/IRL to Mr. Mustafa, concerning the In and Out Service Station, RCRA-UST-IR-15-009, on December 31, 2014, which was received (as indicated by a signed Certified Receipt, (Green Card)) on January 5, 2015. A second identical copy of the NOV/IRL was sent on December 31, 2014 to Mr. Mustafa at the service station's P.O Box address, RCRA-UST-IR-15-008, which was received (as indicated by a signed Certified Receipt, (Green Card)), on January 6, 2015. The IRL

required a response within thirty (30) calendar days of receipt of the IRL, and stated that any request for additional time to respond was to be submitted within ten (10) days of receipt of the Letter.

22. Approximately eight (8) months later, on August 14, 2015, EPA received from Mr. Mustafa a request, dated August 11, 2015, for an extension of time to respond to the December 31, 2014 IRL, RCRA-UST-IR-15-008. In his request, Mr. Mustafa stated that he was the “owner of the In & Out Service Station, located at #58 Estate Glynn St. Croix, U.S.V.I 00850.”
23. A Permit to Use/Operate UST System was issued by the DPNR, on October 14, 2015 with an expiration date of October 14, 2017. It was issued for the In and Out Service Station, 58 Estate Glynn, St. Croix, VI 00820, and notes that Mutasem Mustafa is the Operator. The “Mailing Correspondence” address for In and Out Service Station was listed as P.O. Box 1497, Kingshill, St. Croix, VI 00851.
24. After some delay, in a letter dated November 5, 2015, EPA granted Mr. Mustafa’s untimely request for an extension of time to respond to the December 31, 2014 NOV/IRL, RCRA-UST-IR-15-008. EPA also granted Mr. Mustafa more time to respond to the related August 15, 2013 IRL, RCRA-UST-IR13-032. Mr. Mustafa acknowledged receipt of the November 5, 2015 letter on November 20, 2015.
25. With the extension of time to respond, Mr. Mustafa’s response to the August 15, 2013 IRL, RCRA-UST-IR-13-032, and to the December 31, 2014 NOV/IRL, RCRA-UST-IR-15-008, had to be submitted to EPA no later than December 9, 2015.
26. On or about March 2, 2016, an EPA inspector met with Mr. Mustafa to discuss responding to the NOV/IRL. Mr. Mustafa indicated his view that he did not need to respond to the IRL/NOVs, but ultimately told the inspector that he would answer the NOV/IRLs.
27. As of the date of the issuance of this Complaint, Mr. Mustafa has not submitted a response to any of the above-noted NOV/IRLs.
28. On or about October 14, 2016, EPA mailed a new NOV/IRL to Mutasem Mustafa, Owner/Operator, In and Out Service Station regarding In and Out Service Station (F/K/A Farms/Capital/Remy Service Station). This NOV/IRL asked a series of questions regarding the compliance status, history and operations of the USTs and UST systems at the facility. The NOV/IRL directed that the response be mailed to Paul Sacker, at US EPA, Region 2.
29. On or about October 20, 2016, an EPA inspector hand delivered an identical copy of the October 14, 2016 NOV/IRL to Mr. Mustafa. Mr. Kerten Peters of the VIDPNR witnessed Mr. Mustafa accept receipt of this letter.

30. The copy of the October 14, 2016 NOV/IRL which had been mailed to Mr. Mustafa, was signed for and received on November 16, 2016 (as indicated by the signed U.S. Post Office Green Card).
31. Mr. Mustafa's response to the October 14, 2016 NOV/IRL was due thirty (30) calendar days after receipt. Any request for additional time to respond to the NOV/IRL was due five (5) days after the date of receipt.
32. Mr. Mustafa's response to the NOV/IRL handed to him on October 20, 2016 was due on or about November 19, 2016.
33. No request for additional time to respond to the October 14, 2016 NOV/IRL was submitted, either verbally or in writing.
34. EPA never extended the deadline for the response.
35. No response has been received by EPA.
36. As of the date of this Complaint, Respondent has not responded to the information requests in the October 14, 2016 IRL.
37. Respondent's failure to respond to the IRL dated October 14, 2016 constitutes a violation of 40 C.F.R. § 280.34 and Section 9005 of the Act, 42 U.S.C. § 6991d.
38. Respondent is liable for civil penalties pursuant to Section 9006 of RCRA for his failure to respond to the October 14, 2016 IRL between at least December 1, 2016 and July 1, 2017.
39. Section 9005 and 40 C.F.R. § 280.34 constitute requirements of Subtitle I of RCRA for purposes of Section 9006(a) of RCRA, 42 U.S.C. § 6991e(a).

PROPOSED CIVIL PENALTY

The proposed civil penalty has been determined in accordance with Section 9006(d)(2)(A) of the Act, 42 U.S.C. § 6991e(d)(2)(A). For purposes of determining the amount of any penalty to be assessed, Section 9006(c) of the Act, 42 U.S.C. § 6991e(c)14, states that, "Any order issued under this section shall...assess a penalty, if any, which the Administrator [of EPA] determines is reasonable taking into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements." Additionally, Sections 9006(e)(1) and (2) of the Act, 42 U.S.C. § 6991e(e)(1) and (2), provide that EPA "may...take [] into account in determining the terms of a civil penalty [the] compliance history of an owner or operator" of underground storage tanks and "[a]ny other factor the Administrator [of EPA] considers appropriate[.]" respectively. 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 at the time of its filing, and has used "US EPA Penalty Guidance for Violations of UST Requirements" (EPA's

“UST Penalty Policy”), dated November 14, 1990. EPA’s UST Penalty Policy is available upon request and also publicly available on the Internet at <http://www.epa.gov/swerust1/directiv/od961012.htm>.

EPA’s UST Penalty Policy provides guidance to effect a rational, consistent and equitable calculation methodologies for applying the statutory penalty criteria (enumerated above) to particular cases.

Section 9006(d)(2)(A) of the Act, 42 U.S.C. § 6991e(d)(2)(A), authorizes the assessment of a civil penalty up to \$10,000 for each tank for each day of violation of any requirement or standard promulgated by the Administrator of EPA. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through 2015 (the “Inflation Adjustment Act”), 28 U.S.C. § 245, required EPA to adjust its penalties for inflation on a periodic basis. Consistent with this statutory mandate, EPA has amended the penalty amounts in the November 1990 UST Penalty Policy to reflect inflationary adjustments. The adjustments were made pursuant to the July 27, 2016 document entitled “Amendments to the U.S. Environmental Protection Agency’s Civil Penalty Policies to Account for Inflation (applicable to violations that occurred after November 2, 2015).”

Pursuant to the Inflation Adjustment Act, the maximum statutory civil penalty under Section 9006(d)(2) of the Act, 42 U.S.C. § 6991e(d)(2), is \$22,957 per day for each violation occurring after November 2, 2015 where the penalty is assessed on or after January 15, 2017. *See* 40 C.F.R. Part 19 and 82 Fed. Reg. 3633 (January 12, 2017).

A penalty calculation worksheet to support the penalty figure for the violation cited in this Complaint is included as Attachment 1.

Complainant proposes, subject to the receipt and evaluation of further relevant information that Respondent be assessed the following civil penalties for the violation alleged in this Complaint: A civil penalty of **\$5,340** is proposed for Respondent’s failure to respond to the Information Request Letter Issued under RCR A § 9005 and 40 C.F.R. §280.34 for the UST systems owned and/or operated by Respondent.

EPA reserves its authority to seek additional penalties if Respondent’s failure to respond to the Information Request Letter continues.

COMPLIANCE ORDER

Based on the foregoing, and pursuant to the authority of Section 9006 of the Act, 42 U.S.C. § 6991e, Complainant issues the following Compliance Order against Respondent, which shall take effect thirty (30) days after service of this Order (i.e., the effective date), unless by that date, the Respondent has requested a hearing pursuant to 40 C.F.R. § 22.15. *See* 42 U.S.C. § 6991(e)(b) and 40 C.F.R. §§ 22.37(b) and 22.7(c):

1. Respondent shall, within thirty (30) days of the effective date of this Order, follow the instructions in Enclosure I, and respond fully to the questions about the USTs located

at the In and Out Service Station. The questions are set forth in paragraphs 1 to 24 in Enclosure II in the October 14, 2016 NOV/IRL (both of which are attached to this Complaint), with the following exception: whereas the period of time stated in Enclosure I was the twelve-month period preceding March 2, 2016, that period shall now be the twelve month period from July 1, 2016 to and including June 30, 2017. Respondent shall submit with its response the “certification of answers to request for information” in Enclosure III.

2. Respondent shall submit the response required to be submitted pursuant to this Order to:

**Claudia Gutierrez, Team Leader
UST Team
U.S. Environmental Protection Agency, Region 2
290 Broadway, 20th Floor
New York, NY 10007-1866
Attn: Edward Guster**

NOTICE OF LIABILITY FOR ADDITIONAL CIVIL PENALTIES

Pursuant to Section 9006(a)(3) of the Act, 42 U.S.C. §6991e(a)(3), and in accordance with the 82 Fed. Reg.3633 (January 12, 2017) to be codified at 40 C.F.R. Part 19), a violator failing to comply with the requirements of a Compliance Order that has taken effect within the time specified in the Order is liable for a civil penalty up to \$57,391 for each day of continued noncompliance.

PROCEDURES GOVERNING THIS ADMINISTRATIVE LITIGATION

Upon receipt of a compliance order issued under Section 9006(a) of the Act, 42 U.S.C. § 6991e(a), Respondent may seek administrative review in accordance with 40 C.F.R. §§ 22.15 and 22.37(b). Respondent may seek judicial review of the compliance order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701 – 706, once it is final and reviewable pursuant to Section 9006(b) of RCRA, 42 U.S.C. § 6991e(b), and 40 C.F.R. §§ 22.31 and 22.37(b).

The rules of procedure governing this civil administrative litigation were originally set forth in 64 Fed. Reg. 40138 (July 23, 1999), entitled CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENTS OF CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION COMPLIANCE ORDERS, AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS (“Consolidated Rules of Practice”), and which are codified at 40 C.F.R. Part 22. These rules were recently amended to simplify the administrative processing of cases by expanding the availability of electronic filing and service procedures and eliminating inconsistencies. 82 Fed. Reg. 2230, January 9, 2017. These amendments became effective on May 22, 2017 and apply to all new case filings after that

date. A copy of the current Consolidated Rules of Practice, incorporating these amendments, accompanies this Complaint.

A. Answering the Complaint

Where Respondent intends to contest any material fact upon which the Complaint is based, to contend that the proposed penalty is inappropriate or to contend that Respondent is entitled to judgment as a matter of law, Respondent must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written Answer to the Complaint (40 C.F.R.

i 22.15(a)). Such Answer must be filed within 30 days after service of a Complaint. 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, N.Y. 10007-1866**

Respondent shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action (40 C.F.R. § 22.15(a)).

Respondent's 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 Respondent has any knowledge (40 C.F.R. § 22.15(b)). Where Respondent lacks knowledge of a particular factual allegation and so states in its Answer, the allegation is deemed denied (40 C.F.R. § 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 Respondent disputes (and thus intends to place at issue in the proceeding), and (3) whether Respondent requests a hearing (40 C.F.R. § 22.15(b)).

Respondent's failure affirmatively to raise in the Answer facts that constitute or that might constitute the grounds of its defense may preclude Respondent, 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 Respondent in its Answer, a hearing upon the issues raised by the Complaint and Answer may be held (40 C.F.R. § 22.15(c)). If, however, Respondent does not request a hearing, the Presiding Officer (as defined in 40 C.F.R. § 22.3) may hold a hearing if the Answer raises issues appropriate for adjudication (40 C.F.R. § 22.15(c)).

Any hearing in this proceeding will be held at a location determined in accordance with 40 C.F.R. § 22.35(b). 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 40 C.F.R. Part 22.

prevent it 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 C.F.R. § 22.15(c).

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

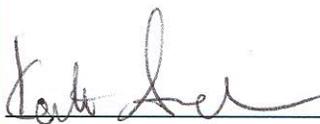
Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written consent agreement. 40 C.F.R. § 22.18(b)(2). In accepting the consent agreement, Respondent waives its right to contest the allegations in the Complaint and waives its right to appeal the final order that is to accompany the consent agreement. 40 C.F.R. § 22.18(b)(2). In order to conclude the proceeding, a final order ratifying the parties' agreement to settle will be executed. 40 C.F.R. § 22.18(b)(3).

Respondent's entering into a settlement through the signing of such Consent Agreement and its complying with the terms and conditions set forth in the such Consent Agreement terminates this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint. Respondent's entering into a settlement does not extinguish, waive, satisfy or otherwise affect its obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

If, instead of filing an Answer, Respondent wishes not to contest the Compliance Order in the Complaint and wants to pay the total amount of the proposed penalty within thirty (30) days after receipt of the Complaint, Respondent should promptly contact the Assistant Regional Counsel identified above.

Dated: JUL 28 2017



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency -Region 2
290 Broadway
New York, NY 10007-1866

In the Matter of Mutasem Mustafa
Docket No. RCRA-02-2017-7502

To:
Mutasem Mustafa
58 Estate Glynn
Christiansted, St. Croix, VI 00850

Mutasem Mustafa
In and Out Service Station
P.O. Box 1497
Kingshill, St. Croix, VI 00851

cc: Norman Williams, Director
Division of Environmental Protection
Virgin Islands Department of Planning and Natural Resources
45 Estate Mars Hill
Frederiksted, VI 00840-4474

And,

Syed Syedali
Program Manager
Division of Environmental Protection
Virgin Islands Department of Planning and Natural Resources
45 Estate Mars Hill
Frederiksted, VI 00840-4474

JUL 8 5 10S

Site: **In and Out Service Station (f/k/a Farms/Capital/Remy Service Station), 58 Estate Glynn, Christiansted, VI**
 Violation: **\$280.34 - No Response to IRL or NOV**

- 1. Days of noncompliance: **1-Dec-16** **1-Jul-17**
- 2. Number of facilities, tanks or pipes: **1**
- 3. Total number of days: **213**

Part 2 - Economic Benefit Component (See BEN computer model v. 5.6):

- 4. One Time Capital & Time Costs: **\$ 2.00**
- 5. Delay Capital & Avoided Costs: **\$ -**
- 6. Avoided Annually Recurring Costs: **\$ -**
- 7. Initial Economic Benefit (4-5+6): **\$ 2.00**
- 8. Final Economic Benefit at Penalty Payment Date:

Part 3 - Matrix Value For The Gravity-Based Component:

9. Matrix Value (MV): **1,500**

Inflation Adjustment Rules:

Value	Start Date	End Date	Inflation	Value+Inflatio Round To	Matrix	Total
1,500	12/1/2016	7/1/2017	1.7816	\$ 2,672.40	10 \$ 2,670.00	\$ 2,670.00

Note: Inflation adjustments are defined as:

a. See 7/27/16 Amendments to EPA's Civil Penalty Policies for violations >11/2/15

Potential for Harm: **Major** Extent of Deviation: **Major**

Justifications for Potential for Harm and Extent of Deviation: **See OSWER Directive 9610.12, Appendix A.**

Part 4 - Violator-Specific Adjustments To Matrix Value:

	% Change	Matrix Value	Total Dollar Adjustment
11a. Degree of cooperation or noncooperation:	0%	\$2,670.00	-
12a. Degree of willfulness or negligence:	0%	\$2,670.00	-

13a. History of noncompliance: 0% \$2,670.00 -

14a. Unique factors: 0% \$2,670.00 -

15a. Adjusted Matrix Value, (line 10a + Dollar Adjustments in lines 11.a to 14a) \$2,670.00

Justification for Degree of Cooperation/ Noncoope **no adjustment** \ No adjustment was made.
 Justification for Degree of Willfulness or Negligenc **no adjustment** \ No adjustment was made.
 Justification for History of Noncompliance: **no adjustment** \ No adjustment was made.
 Justification for Unique Factors: **no adjustment** \ No adjustment was made.

Calculations for Gravity Based Components (GBC) with Inflation Adjustments:

16. Environmental Sensitivity: Low

17. Environmental Sensitivity Multiplier (ESM): 1

Justification for Environmental Sensitivity Multiplier:

18. Days of Noncompliance Multiplier (DNM): 2

Calculations for Gravity Based Components:

	Start	End	Subset of Days	(AMV)	(ESM)	% of Overall Days	DNM% - (% of overall days x DNM)	TOTAL
19a.	12/1/2016	7/1/2017	213	\$2,670.00	1	1	2	5,340.00

20. Total Gravity-Based Component = 5,340.00

21. Economic Benefit Component (from line 8): 0.00

22. Gravity-Based Component (from line 20): 5,340.00

23. Initial Penalty Target Figure: (line 21 plus line 22): 5,340.00

In the Matter of Mutasem Mustafa
Docket No. RCRA-02-2017-7502

CERTIFICATE OF SERVICE

This is to certify that I have this day caused to be mailed a copy of the foregoing Complaint, Compliance Order, and Notice of Opportunity for Hearing, bearing docket number RCRA-02-2017-7502, (with Attachment 1 and Enclosures I, II and III from the October 14, 2016 NOV/IRL) and a copy of the Consolidated Rules of Practice, 40 C.F.R. Part 22, by Certified Mail Return-Receipt Requested, to:

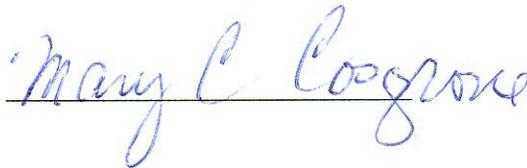
Mutasem Mustafa
58 Estate Glynn
Christiansted, St. Croix, VI 00850

And

Mutasem Mustafa
In and Out Service Station
P.O. Box 1497
Kingshill, St. Croix, VI 00851

I hand-carried the original and a copy of the foregoing Complaint to the Office of Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Dated: **AUG - 2 2017**
New York, New York



Mary C. Coogrose

In the Matter of Mutasem Mustafa
Docket No. RCRA-02-2017-7502

bcc:

Tayler Covington (2PAD-POB)
Lenny Voo (2DECA-RCB)
William Sawyer (ORC)
Carl Howard (ORC)
Guster, Edward (DECA-RCB)
Claudia Gutierrez (DECA-RCB)
Carman Guerrero-Perez (2CEPD)

STOS S - DUA