

**STATE OF RHODE ISLAND  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

**OFFICE OF COMPLIANCE & INSPECTION**

**IN RE: Blanca S. Escobar Gomez  
PETRO MOBIL, INC.**

**FILE NO.: OCI-UST-22-5-02640**

**NOTICE OF VIOLATION**

**A. INTRODUCTION**

Pursuant to Sections 42-17.1-2(21) and 42-17.6-3 of the Rhode Island General Laws, as amended, (“R.I. Gen. Laws”) you are hereby notified that the Director of the Rhode Island Department of Environmental Management (“Director” of “RIDEM”) has reasonable grounds to believe that the above-named parties (“Respondents”) have violated certain statutes and/or administrative regulations under RIDEM's jurisdiction.

**B. ADMINISTRATIVE HISTORY**

On 11 May 2022, RIDEM issued a *Notice of Intent to Enforce* (“NIE”) to Respondents by certified mail for the alleged violations that are the subject of this *Notice of Violation* (“NOV”). The NIE required specific actions to correct the violations. On 17 May 2022, RIDEM received a letter from Blanca S. Escobar in response to the NIE. The letter stated that PETRO MOBIL, INC. is a tenant and will be advised to address all the issues in the NIE. While some of the issues in the NIE were addressed, as of the date of the NOV, Respondents have failed to fully comply with the NIE.

**C. FACTS**

- (1) The property is located at 360 Plainfield Street, Assessor’s Plat 108, Lot 264, in Providence, Rhode Island (“Property”). The Property includes a convenience store and a motor fuel storage and dispensing system (“Facility”).
- (2) Blanca S. Escobar Gomez owns the Property.
- (3) PETRO MOBIL, INC. operates the Facility.
- (4) Underground storage tanks (“USTs” or “tanks”) are located on the Property, which tanks are used for storage of petroleum products, and which are subject to Rhode Island’s *Rules and Regulations for Underground Storage Facilities Used for Regulated Substances and Hazardous Materials* (250-RICR-140-25-1) (“UST Regulations”).
- (5) The Facility is registered with RIDEM and is identified as UST Facility No. 02640.

(6) The USTs are registered with RIDEM for the Facility as follows:

UST ID No.	Date Installed	Capacity	Product Stored
006	28 February 1996	8,000 gallons	Gasoline
007	28 February 1996	4,000 gallons	Gasoline

(7) On 5 May 2022, RIDEM inspected the Facility. The inspection and a review of RIDEM's files for the Facility revealed the following alleged instances of non-compliance with the UST Regulations:

- (a) The spill containment basins for UST Nos. 006 and 007 were holding liquid mixtures at the time of inspection.
- (b) Written verification that the spill containment basins for UST Nos. 006 and 007 had been tested for tightness by a RIDEM-licensed tightness tester prior to 13 October 2021 was not available. A spill containment basin tightness test report has not been received by RIDEM.
- (c) Written verification that the tank top and dispenser sumps for UST Nos. 006 and 007 had been tested for tightness by a RIDEM-licensed tightness tester prior to 13 October 2021 was not available. A tank top and dispenser sump tightness test report has not been received by RIDEM.

(8) By 5 June 2022, Respondents were required to submit written verification to RIDEM that the sacrificial anode cathodic protection for UST No. 006/007 has been tested by a qualified cathodic protection tester in accordance with Part 1.10(E)(5) of the UST Regulations within the last three years. Upon information and belief, the cathodic protection for the UST has not been tested since 5 June 2019.

(9) As of the date of the NOV, Respondents have failed to address the non-compliance described in subsections B (7) and B (8) above.

#### D. VIOLATION

Based on the foregoing facts, the Director has reasonable grounds to believe that you have violated the following regulations:

##### (1) **UST Regulations**

- (a) **Part 1.10(E)(5)** – requiring that sacrificial anode cathodic protection systems be tested by a qualified cathodic protection tester at least once every 3 years.

- (b) **Part 1.10(N)(1)(a)** – requiring that spill containment basins be always kept free of liquids and debris.
- (c) **Part 1.10(N)(1)(b)** – requiring that spill containment basins be tested for tightness at least once before 13 October 2021 and then at least once every 3 years thereafter.
- (d) **Part 1.10(N)(3)(d)** – requiring that tank top and dispenser sumps be tested for tightness at least once before 13 October 2021 and then at least once every 3 years thereafter.

E. ORDER

Based upon the violations alleged above and pursuant to R.I. Gen. Laws Section 42-17.1-2(21), you are hereby ORDERED to:

- (1) **IMMEDIATELY upon receipt of the NOV**, evacuate and clean the spill containment basins for UST Nos. 006 and 007 in accordance with Part 1.10(N)(1)(a) of the UST Regulations. All wastes removed from these basins shall be managed and disposed of in accordance with Part 1.7.3 of Rhode Island’s *Rules and Regulations for Hazardous Waste Management* (250-RICR-140-10-1). Written or photographic verification of compliance shall be submitted to RIDEM’s Office of Compliance and Inspection (“OC&I”).
- (2) **Within 60 days of receipt of the NIE**, complete all the following remedial actions:
  - (a) Procure the services of a qualified cathodic protection tester to test the sacrificial anode cathodic protection for UST No. 006/007 in accordance with Part 1.10(E)(5) of the UST Regulations. Original copies of the cathodic protection test report shall be submitted to OC&I and RIDEM’s Office of Land Revitalization & Sustainable Materials Management (“LRSMM”) in accordance with Part 1.10(E)(7) of the UST Regulations.
  - (b) Procure the services of a RIDEM-licensed tightness tester to test the spill containment basins for UST Nos. 006 and 007 for tightness in accordance with Part 1.10(N)(1)(b) of the UST Regulations. Original copies of the tightness test report shall be submitted to OC&I and LRSMM in accordance with Part 1.10(N)(1)(b)(2) of the UST Regulations.
  - (c) Procure the services of a RIDEM-licensed tightness tester to the tank top and dispenser sumps for UST Nos. 006 and 007 were tested for tightness perform such testing in accordance with Part 1.10(N)(3)(d) of the UST Regulations. Original copies of the tightness test report shall be submitted to OC&I and LRSMM in accordance with Part 1.10(N)(3)(d)(5) of the UST Regulations.

F. PENALTY

- (1) Pursuant to R.I. Gen. Laws Section 42-17.6-2, the following administrative penalty, as more specifically described in the attached penalty summary and worksheets, is hereby ASSESSED, jointly and severally, against each named respondent:

**\$5,375**

- (2) The proposed administrative penalty is calculated pursuant to Rhode Island's *Rules and Regulations for Assessment of Administrative Penalties* ("Penalty Regulations") and must be paid to RIDEM within 30 days of your receipt of the NOV. Penalty payments shall be by one of two methods:

- (a) By certified check, cashier's check, or money order made payable to the **General Treasury – Water and Air Protection Program** and forwarded to:

Administrator, RIDEM Office of Compliance and Inspection  
235 Promenade Street, Suite 220  
Providence, RI 02908-5767

- (b) By wire transfer in accordance with instructions provided by RIDEM.

- (3) Penalties assessed against Respondents in the NOV are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
- (4) If any violation alleged herein shall continue, then each day during which the violation occurs or continues shall constitute a separate offense and the penalties and/or costs for that violation shall continue to accrue in the manner set forth in the attached penalty summary and worksheets. The accrual of additional penalties and costs shall be suspended if RIDEM determines that reasonable efforts have been made to comply promptly with the NOV.

G. RIGHT TO ADMINISTRATIVE HEARING

- (1) Pursuant to R.I. Gen. Laws Chapters 42-17.1, 42-17.6, 42-17.7 and 42-35, each named respondent is entitled to request a hearing before RIDEM's Administrative Adjudication Division regarding the allegations, orders and/or penalties set forth in Sections B through F above. All requests for hearing MUST:

- (a) Be in writing. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.6-4(b).

- (b) Be **RECEIVED** by RIDEM's Administrative Adjudication Division, at the following address, within 20 days of your receipt of the NOV. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.7-9:

Administrative Clerk  
RIDEM - Administrative Adjudication Division  
235 Promenade Street, Room 350  
Providence, RI 02908-5767

- (c) Indicate whether you deny the alleged violations and/or whether you believe that the administrative penalty is excessive. See R.I. Gen. Laws Section 42-17.6-4(b).
- (d) State clearly and concisely the specific issues which are in dispute, the facts in support thereof and the relief sought or involved, if any. See Part 1.7(B) of Rhode Island's *Rules and Regulations for the Administrative Adjudication Division*.

- (2) A copy of each request for hearing must also be forwarded to:

Jenna Giguere, Esquire  
RIDEM - Office of Legal Services  
235 Promenade Street, 4<sup>TH</sup> Floor  
Providence, RI 02908-5767

- (3) Each named respondent has the right to be represented by legal counsel at all administrative proceedings relating to this matter.
- (4) Each respondent must file a separate and timely request for an administrative hearing before RIDEM's Administrative Adjudication Division as to each violation alleged in the written NOV. If any respondent fails to request a hearing in the above-described time or manner regarding any violation set forth herein, then the NOV shall automatically become a Final Compliance Order enforceable in Superior Court as to that respondent and/or violation and any associated administrative penalty proposed in the NOV shall be final as to that respondent. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and (vi) and 42-17.6-4(b) and (c).
- (5) Failure to comply with the NOV may subject each respondent to additional civil and/or criminal penalties.
- (6) An original signed copy of the NOV is being forwarded to the City of Providence, wherein the Property is located, to be recorded in the Office of Land Evidence Records pursuant to R.I. Gen. Laws Chapter 34-13 and Section 42-17.1-2 (31), as amended.
- (7) The NOV does not preclude the Director from taking any additional enforcement action nor does it preclude any other local, state, or federal governmental entities from initiating enforcement actions based on the acts or omissions described herein.

If you have any legal questions, then you may contact (or if you are represented by an attorney, please have your attorney contact) Jenna Giguere of RIDEM's Office of Legal Services at (401) 222-6607 or at [jenna.giguere@dem.ri.gov](mailto:jenna.giguere@dem.ri.gov). All other inquiries should be directed to Tracey Tyrrell of RIDEM's Office of Compliance and Inspection at (401) 222-1360, ext. 2777407 or at [tracey.tyrrell@dem.ri.gov](mailto:tracey.tyrrell@dem.ri.gov).

Please be advised that any such inquiries do not postpone, eliminate, or otherwise extend the need for a timely submittal of a written request for a hearing, as described in Section G above.

FOR THE DIRECTOR

By: \_\_\_\_\_  
David E. Chopy, Administrator  
RIDEM Office of Compliance and Inspection

Dated: \_\_\_\_\_

CERTIFICATION

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_  
the within Notice of Violation was forwarded to:

Blanca S. Escobar Gomez  
16 Almond Drive  
Johnston, RI 02919

PETRO MOBIL, INC  
c/o Elio M. Olivero, Registered Agent  
360 Plainfield Street  
Providence, RI 02909

by Certified Mail.



# ADMINISTRATIVE PENALTY SUMMARY

Program: Underground Storage Tank  
 File No.: OCI-UST-22-5-02640  
 Respondents: Blanca S. Escobar Gomez and PETRO MOBIL INC.

<b>GRAVITY OF VIOLATION</b>					
SEE ATTACHED "PENALTY MATRIX WORKSHEETS."					
VIOLATION NOS. & CITATIONS	APPLICATION OF MATRIX		PENALTY CALCULATIONS		AMOUNT
	Type	Deviation	Penalty from Matrix	Number or Duration of Violations	
D(1)(a) – Failure to have the cathodic protection tested	Type II <i>(\$12,500 Max. Penalty) *</i>	Minor	\$1,875	1 violation	\$1,875
D(1)(c) – Failure to have the spill containment basins tested for tightness	Type II <i>(\$12,500 Max. Penalty) *</i>	Minor	\$1,500	1 violation	\$1,500
D(1)(d) – Failure to have the tank top and dispenser sumps tested for tightness	Type II <i>(\$12,500 Max. Penalty) *</i>	Minor	\$2,000	1 violation	\$2,000
<b>SUB-TOTAL</b>					<b>\$5,375</b>

\*Maximum Penalties represent the maximum penalty amounts per day, per violation.

<b>ECONOMIC BENEFIT FROM NONCOMPLIANCE</b>
<p>COSTS OF COMPLIANCE, EQUIPMENT, O&amp;M, STUDIES OR OTHER DELAYED OR AVOIDED COSTS, INCLUDING INTEREST AND/OR ANY COMPETITIVE ADVANTAGE DERIVED OVER ENTITIES THAT COMPLY. NOTE: ECONOMIC BENEFIT MUST BE INCLUDED IN THE PENALTY UNLESS:</p> <ul style="list-style-type: none"> <li>- THERE IS NO IDENTIFIABLE BENEFIT FROM NONCOMPLIANCE, OR</li> <li>- THE AMOUNT OF ECONOMIC BENEFIT CAN NOT BE QUANTIFIED.</li> </ul>
<p>A review of the record in this matter has revealed that Respondents have either enjoyed no identifiable benefit from the noncompliance alleged in this enforcement action or that the amount of economic benefit that may have resulted cannot be quantified.</p>

## **ADMINISTRATIVE PENALTY SUMMARY (continued)**

### **COST RECOVERY**

**ADDITIONAL OR EXTRAORDINARY COSTS INCURRED BY THE DIRECTOR DURING THE INVESTIGATION, ENFORCEMENT AND RESOLUTION OF AN ENFORCEMENT ACTION (EXCLUDING NON-OVERTIME PERSONNEL COSTS), FOR WHICH THE STATE IS NOT OTHERWISE REIMBURSED.**

A review of the record in this matter has revealed that RIDEM has not incurred any additional or extraordinary costs during the investigation, enforcement, and resolution of this enforcement action (excluding non-overtime personnel costs), for which the State is not otherwise reimbursed.

**TOTAL PENALTY PROPOSED UNDER PENALTY REGULATIONS = \$5,375**



# PENALTY MATRIX WORKSHEET

CITATION: Failure to have the cathodic protection tested  
 VIOLATION NO.: D (1)(a)

<b>TYPE</b>		
<p style="text-align: center;">___ <b>TYPE I</b></p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;"><b>X</b> <b>TYPE II</b></p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;">___ <b>TYPE III</b></p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare, or environment.</p>
<b>DEVIATION FROM THE STANDARD</b>		
THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><b>FACTORS CONSIDERED:</b></p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Regulations.</p> <ol style="list-style-type: none"> <li>(1) <b>The extent to which the act or failure to act was out of compliance:</b> Respondents failed to procure the services of a qualified cathodic protection tester to test the sacrificial anode cathodic protection for UST No. 006/007 during the year 2022. Periodic testing of UST cathodic protection is expressly required by the UST Regulations and is of importance to the regulatory program. Failure to test and maintain cathodic protection systems could allow corroded steel USTs to remain in use and increase the likelihood of a release of petroleum products to the environment.</li> <li>(2) <b>Environmental conditions:</b> The Facility is in a densely developed area with numerous potential vapor receptors including residential structures, commercial structures, and underground utilities. The Facility is in a GB groundwater classification zone, which are groundwater resources designated as unsuitable for drinking water use without treatment. The Facility is within 1,600 feet of a groundwater reservoir. The Facility is in an environmental justice area. The Facility is within 1,600 feet of Woonasquatucket River and lies within its watershed.</li> <li>(3) <b>Amount of the pollutant:</b> Considered, but not utilized for this calculation.</li> <li>(4) <b>Toxicity or nature of the pollutant:</b> The volatile nature of gasoline presents both public health hazard (due to potential inhalation of benzene) and a public safety hazard (due to the potential for explosion). Gasoline may cause significant soil and groundwater contamination if released to the environment. Certain petroleum constituents are potentially harmful to human health and safety and the environment.</li> <li>(5) <b>Duration of the violation:</b> Approximately 2 months – upon information and belief, Respondents have been in violation of the cathodic protection testing requirement since 5 June 2022. The most recent test was performed on 5 June 2019.</li> <li>(6) <b>Areal extent of the violation:</b> Considered, but not utilized for this calculation.</li> </ol>		

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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the non-compliance:** Respondents failed to prevent the non-compliance by having the cathodic protection tested before 5 June 2022. Respondents have yet to mitigate the alleged non-compliance despite receiving notification of the requirement in the NIE.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Upon information and belief, Respondents also failed to have the cathodic protection tested during each of the years 1999, 2002, 2005, 2008, 2011 and 2017.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Negligence is attributable to Respondents for their failure to comply with the UST Regulations. As owners and operators of the Facility, Respondents had complete control over the occurrence of the violations.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

<b>MAJOR</b>	<b>MODERATE</b>	<u>  <b>X</b>  </u> <b>MINOR</b>
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	<b>MAJOR</b>	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	<b>MODERATE</b>	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	<b>MINOR</b>	\$2,500 to \$6,250	\$1,250 to \$2,500 <b>\$1,875</b>	\$250 to \$1,250

# PENALTY MATRIX WORKSHEET

CITATION: Failure to have the spill containment basins tested for tightness  
 VIOLATION NO.: D (1)(c)

<b>TYPE</b>		
___ <b>TYPE I</b> <u>DIRECTLY</u> related to protecting health, safety, welfare, or environment.	<u><b>X</b></u> <b>TYPE II</b> <u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment.	___ <b>TYPE III</b> <u>INCIDENTAL</u> to protecting health, safety, welfare, or environment.

**DEVIATION FROM THE STANDARD**  
 THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.

**FACTORS CONSIDERED:**

Taken from Part 1.10(A)(1)(b) of the Penalty Regulations.

- (1) **The extent to which the act or failure to act was out of compliance:** Respondents failed to procure the services of RIDEM-licensed tightness tester to test the spill containment basins for UST Nos. 006 and 007 for tightness before 13 October 2021. These basins are designed to contain drips and spillage of gasoline during fuel deliveries. Testing is required to verify that the basins remain liquid tight after years of use. Failure to comply could allow deficient basins to remain in use and increase the likelihood of a release of petroleum product to the subsurface.
- (2) **Environmental conditions:** The Facility is in a densely developed area with numerous potential vapor receptors including residential structures, commercial structures, and underground utilities. The Facility is in a GB groundwater classification zone, which are groundwater resources designated as unsuitable for drinking water use without treatment. The Facility is within 1,600 feet of a groundwater reservoir. The Facility is in an environmental justice area. The Facility is within 1,600 feet of the Woonasquatucket River and lies within its watershed.
- (3) **Amount of the pollutant:** Considered, but not utilized for this calculation.
- (4) **Toxicity or nature of the pollutant:** The volatile nature of gasoline presents both public health hazard (due to potential inhalation of benzene) and a public safety hazard (due to the potential for explosion). Gasoline may cause significant soil and groundwater contamination if released to the environment. Certain petroleum constituents are potentially harmful to human health and safety and the environment.
- (5) **Duration of the violation:** Approximately 9 months – Respondents have been in violation since 13 October 2021.
- (6) **Areal extent of the violation:** Considered, but not utilized for this calculation.

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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the non-compliance:** Respondents failed to prevent the non-compliance by having the spill containment basins tested for tightness before 13 October 2021. Respondents have yet to mitigate the non-compliance despite receiving the NIE from RIDEM, which required that they do so.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Negligence is attributable to Respondents for their failure to immediately comply with the UST Regulations. As owners and operators of the Facility, Respondents had complete control over the occurrence of the violation.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

<b>MAJOR</b>	<b>MODERATE</b>	<u>  <b>X</b>  </u> <b>MINOR</b>
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	<b>MAJOR</b>	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	<b>MODERATE</b>	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	<b>MINOR</b>	\$2,500 to \$6,250	\$1,250 to \$2,500 <b>\$1,500</b>	\$250 to \$1,250

# PENALTY MATRIX WORKSHEET

CITATION: Failure to test the tank top and dispenser sumps for tightness  
 VIOLATION NO.: D (1)(d)

<b>TYPE</b>		
___ <b>TYPE I</b> <u>DIRECTLY</u> related to protecting health, safety, welfare, or environment.	<u><b>X</b></u> <b>TYPE II</b> <u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment.	___ <b>TYPE III</b> <u>INCIDENTAL</u> to protecting health, safety, welfare, or environment.

**DEVIATION FROM THE STANDARD**  
 THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.

**FACTORS CONSIDERED:**

Taken from Part 1.10(A)(1)(b) of the Penalty Regulations.

- (1) **The extent to which the act or failure to act was out of compliance:** Respondents failed to procure the services of RIDEM-licensed tightness tester to test the tank top and dispenser sumps for UST Nos. 006 and 007 before 13 October 2021. These sumps are designed to contain leakage of gasoline from the product pipelines. Testing is required to verify that the sumps remain liquid tight after years of use. Failure to comply would allow deficient sumps to remain in use and increase the likelihood of a release of petroleum product to the subsurface.
- (2) **Environmental conditions:** The Facility is in a densely developed area with numerous potential vapor receptors including residential structures, commercial structures, and underground utilities. The Facility is in a GB groundwater classification zone, which are groundwater resources designated as unsuitable for drinking water use without treatment. The Facility is within 1,600 feet of a groundwater reservoir. The Facility is in an environmental justice area. The Facility is within 1,600 feet of Woonasquatucket River and lies within its watershed.
- (3) **Amount of the pollutant:** Considered, but not utilized for this calculation.
- (4) **Toxicity or nature of the pollutant:** The volatile nature of gasoline presents both public health hazard (due to potential inhalation of benzene) and a public safety hazard (due to the potential for explosion). Gasoline may cause significant soil and groundwater contamination if released to the environment. Certain petroleum constituents are potentially harmful to human health and safety and the environment.
- (5) **Duration of the violation:** Approximately 9 months – Respondents have been non-compliant since 13 October 2021.
- (6) **Areal extent of the violation:** Considered, but not utilized for this calculation.

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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the non-compliance:** Respondents failed to prevent the non-compliance by having the tank top and dispenser sumps tested for tightness before 13 October 2021. Respondents have yet to mitigate the non-compliance despite receiving the NIE from RIDEM, which required that they do so.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Negligence is attributable to Respondents for their failure to comply with the UST Regulations. As owners and operators of the Facility, Respondents had complete control over the occurrence of the alleged violations.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

<b>MAJOR</b>	<b>MODERATE</b>	<u>  <b>X</b>  </u> <b>MINOR</b>
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	<b>MAJOR</b>	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	<b>MODERATE</b>	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	<b>MINOR</b>	\$2,500 to \$6,250	\$1,250 to \$2,500 <b>\$2,000</b>	\$250 to \$1,250