

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

Daoftr Capital Group, LLC

and

Bella Demolition and Contracting Services, LLC

and

Winners Properties, LLC

and

Selini N.Y.

RESPONDENTS

FINDING OF VIOLATION

CAA-02-2025-1601

I. SUMMARY

The United States Environmental Protection Agency (“EPA”) Region 2, Director of the Enforcement and Compliance Assurance Division (“Director”) issues this Finding of Violation (“FOV”) pursuant to the Clean Air Act (“CAA” or “the Act”), 42 U.S.C. § 7401 *et seq.*, to Daoftr Capital Group, LLC (“Daoftr”); Bella Demolition and Contracting Services, LLC (“Bella”); Winners Properties, LLC (“Winners”); and Selini N.Y. (“Selini”) (together, “Respondents”) to notify Respondents that they are in violation of the CAA and its implementing regulations in 40 C.F.R. Part 61 Subpart M § 61.140 *et. seq.*, for violations found at the former Wheatsworth Mill site located at 49 Gingerbread Castle Road, Hamburg, New Jersey 07419 (“Demolition

Site”) and an adjacent lot located across the street at 30 Gingerbread Castle Road, Hamburg, New Jersey 07419 (“Temporary Debris Site”) (together, “the Facility”). The authority to find CAA violations is delegated to the Director from the EPA Administrator through the Regional Administrator.

As described in detail below, the Respondents have violated Section 112 of the CAA, 42 U.S.C. § 7412, by failing to comply with the National Emission Standards for Hazardous Air Pollutants (“NESHAP”). The violations have been ongoing since August 18, 2023, when the Respondents were approved to demolish the eleven (11) story building at the Demolition Site.

II. STATUTORY AND REGULATORY BACKGROUND

The Clean Air Act

1. Pursuant to EPA Delegation of Authority 7-6-A and EPA, Region 2 Delegation of Authority 7-6-A, the authority to make findings of a violation and to issue a CAA Section 113(a) Compliance Order has been delegated to the Director by the EPA Administrator through the Region 2, Regional Administrator.

2. Pursuant to EPA Delegation of Authority 7-8 and EPA, Region 2 Delegation of Authority 7-8, the EPA Administrator's information gathering authority under CAA Section 114 has been delegated to the Director by the EPA Administrator through the Region 2, Regional Administrator.

3. CAA Section 302(e) states that whenever the term “person” is used in the Act, the term includes “an individual, corporation, partnership, association, State, municipality,

political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.” 42 U.S.C. § 7602(e).

4. CAA Section 101(b)(1) states that one of the purposes of the Act is to “protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population.” 42 U.S.C. § 7401(b)(1).

5. Section 113(a)(3) of the Act authorizes the EPA Administrator to, among other actions, issue compliance orders to any person whenever, on the basis of any information available to EPA, the Administrator finds that such person has violated or is in violation of any requirement or prohibition of Title I of the Act (other than compliance with a State Implementation Plan or SIP), or of any regulation promulgated pursuant to Sections 112 and 114 of the Act. 42 U.S.C § 7413(a)(3).

6. This FOV is issued to the Respondents for an alleged violation at the Facility of Section 112 of the CAA, 42 U.S.C. § 7412, and the National Emission Standard for Asbestos, 40 C.F.R. Part 61, Subpart M (“Asbestos NESHAP”), which EPA promulgated pursuant to Sections 112 and 114 of the Act, 42 U.S.C §§ 7412 and 7414.

7. Section 112 of the Act requires the Administrator to publish a list of hazardous air pollutants (“HAPs”), a list of categories and subcategories of major and area sources of listed HAPs, and to promulgate regulations establishing emission standards, referred to as National Emissions Standards for Hazardous Air Pollutants (“NESHAPs”), for each category or subcategory of major and area sources of HAP. 42 U.S.C § 7412.

8. Section 112(b)(1) of the Act provides the initial list of HAPs and Section 112(b)(2) of the Act requires the Administrator to periodically review the list and, where appropriate, revise it. 42 U.S.C § 7412(b)(1).

9. Section 112(c) of the Act requires the Administrator to publish a list of categories or subcategories of major and area sources of listed HAPs. 42 U.S.C § 7412(c).

10. Section 112(d) of the Act requires the Administrator to promulgate regulations establishing NESHAPs for each category or subcategory of major and area sources of HAPs. NESHAPs promulgated under the CAA as it existed prior to the 1990 CAA amendments are set forth in 40 C.F.R. Part 61. 42 U.S.C § 7412(d).

11. Section 112(h) of the Act authorizes EPA to promulgate “design, equipment, work practice, or operational” standards, or combinations thereof, which are consistent with Section 112(d) or (f) of the Act, to the extent that it is not feasible to prescribe or enforce an emission standard for control of a HAP. Pursuant to Section 112(d)(2)(D) and (E) of the Act, design, equipment, work practice, or operational standards, or combinations thereof, promulgated under Section 112(h) of the Act, are treated as emission standards. 42 U.S.C § 7412(h).

12. Section 112(i)(3)(A) of the Act prohibits the operation of a source in violation of any emissions standard, limitation or regulation issued pursuant to Section 112 of the Act and directs the Administrator to set a compliance deadline for existing sources that is no more than 3 years after the effective date of the standard. 42 U.S.C § 7412(i)(3)(A).

13. Section 114(a)(1) of the CAA authorizes the EPA Administrator to, on a one-time, periodic, or continuous basis, require testing, monitoring, record-keeping, and reporting of information, to enable him or her to carry out any provision of the Act (except certain provisions in Subchapter II of the Act) and to assess compliance with, among other requirements, any regulations promulgated under Sections 111 or 112 of the Act. 42 U.S.C § 7414(a)(1).

14. Section 114(a)(2) of the CAA provides that for the purpose of determining whether any person is in violation of any emission standard, EPA representatives shall have a right of entry, upon presentation of credentials, to any premises to inspect and sample certain emissions. 42 U.S.C § 7414(a)(2).

15. Section 113(a)(3) of the CAA authorizes EPA to, among other actions, issue compliance orders to any person whenever, on the basis of any information available to EPA, EPA finds that such person has violated or is in violation of any requirement or prohibition of Title I of the Act, or any regulation promulgated pursuant to Sections 112 and 114 of the Act. 42 U.S.C § 7413(a)(3).

16. Section 302(e) of the CAA provides that whenever the term “person” is used in the Act, the term includes an individual, corporation, partnership, association, state, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof. 42 U.S.C § 7602(e).

The Asbestos NESHAP, 40 C.F.R. Part 61, Subpart M

17. The Asbestos NESHAP specifies a set of work practice standards, set forth at 40 C.F.R. §§ 61.145 and 61.150, which are applicable to the owners or operators of demolition or renovation activities in which the amount of regulated asbestos-containing material (“RACM”) that is stripped, removed, dislodged, cut, drilled or similarly disturbed is at least eighty (80) linear meters (260 linear feet) on pipes or at least 15 (fifteen) square meters (160 square feet) on other facility components or at least 1 cubic meter (35 cubic feet) when the length or area could not be measured prior to the asbestos removal/demolition activity.

18. The term “active waste disposal site” is defined by 40 C.F.R. § 61.141 to mean “any disposal site other than an inactive site.”

19. The term “adequately wet” is defined by 40 C.F.R. § 61.141 to mean “sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing material, then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wet.”

20. The term “asbestos-containing waste materials” (“ACWM”) is defined by 40 C.F.R. § 61.141, in relevant part, to mean “mill tailings or any waste that contains commercial asbestos and is generated by a source subject to [the Asbestos NESHAP]. . . . [a]s applied to demolition and renovation operations, this term also includes regulated asbestos-containing material waste and materials contaminated with asbestos including disposable equipment and clothing.”

21. The term “Category I nonfriable asbestos-containing material (“Category I” of “Category I ACM”)” is defined by 40 C.F.R. § 61.141 to mean “asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy.”

22. The term “Category II nonfriable ACM” (“Category II” or “Category II ACM”) is defined by 40 C.F.R. § 61.141 to mean “any material, excluding Category I nonfriable ACM, containing more than 1 percent asbestos as determined using the methods specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.”

23. The term “demolition” is defined by 40 C.F.R. § 61.141 to mean “the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.”

24. The term “facility” is defined by 40 C.F.R. § 61.141 to include, among other things, “any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation or building containing condominiums or individual dwelling units operated as a residential cooperative but excluding residential buildings having four or fewer dwelling units).”

25. The term “facility component” is defined by 40 C.F.R. § 61.141 to mean “any part of a facility including equipment.”

26. The term “Friable asbestos material” is defined by 40 C.F.R. § 61.141 in relevant part to mean “any material containing more than 1 percent asbestos, as determined using the method specified in appendix E subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy, that, when dry, can be crumbled, pulverized or reduced to powder by hand pressure.”

27. The term “Inactive waste disposal site” is defined by 40 C.F.R. § 61.141 to mean any disposal site or portion of it where additional asbestos-containing waste material has not been deposited within the past year.

28. The term “in poor condition” is defined by 40 C.F.R. § 61.141 to mean “the binding of the material is losing its integrity by peeling, cracking, or crumbling of the material.”

29. The term “installation” is defined by 40 C.F.R. § 61.141 to mean “any building or structure or any group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator (or owner or operator under common control).”

30. The term “leak-tight” is defined by 40 C.F.R. § 61.141 to mean “that solids or liquids cannot escape or spill out. It also means dust-tight.”

31. The term “nonfriable asbestos-containing material” is defined by 40 C.F.R. § 61.141 to mean “any material containing more than 1 percent asbestos as determined using the method specified in appendix E subpart E, 40 C.F.R. part 763, section 1, Polarized Light Microscopy, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.”

32. The term “owner or operator of a demolition or renovation activity” is defined by 40 C.F.R. § 61.141 to mean “any person who owns, leases, operates, controls or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls or supervises the demolition or renovation operation, or both.”

33. The term “particulate asbestos material” is defined by 40 C.F.R. § 61.141 to mean “finely divided particles of asbestos or material containing asbestos.”

34. The term “regulated asbestos-containing material” (“RACM”) is defined by 40 C.F.R. § 61.141 to mean “(a) Friable asbestos material, (b) Category I nonfriable ACM that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable ACM that has high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by the Asbestos NESHAP.”

35. The term “remove” is defined by 40 C.F.R. § 61.141 to mean “to take out RACM or facility components that contain or are covered with RACM from any facility.”

36. The term “renovation” is defined by 40 C.F.R. § 61.141 to mean “altering of a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component. Operations in which load-supporting structural members are wrecked or taken out are demolitions.”

37. The term “waste generator” is defined by 40 C.F.R. § 61.141 to mean “any owner or operator of a source covered by this subpart whose act or process produces asbestos-containing waste material.”

38. 40 C.F.R. § 61.145(a) provides that the affected facility, or part of a facility, where a demolition or renovation is to take place must be thoroughly inspected for the presence of asbestos prior to the commencement of the demolition or renovation activity.

39. 40 C.F.R. § 61.145(b) requires that each owner or operator of a covered demolition or renovation activity provide the EPA with written notice of its intention to demolish or renovate.

40. 40 C.F.R. § 61.145(b)(3)(i) provides, *inter alia*, that each owner or operator of a demolition project that meets the requirement in 40 C.F.R. § 61.145(a)(1) shall provide notification to the EPA at least ten (10) working days before asbestos stripping or removal work or any other activity begins.

41. 40 C.F.R. § 61.145(b)(4)(vi) provides that the notification required by 40 C.F.R. § 61.145(b)(1) contain an estimate of the approximate amount of RACM to be removed from the facility and an estimate of the approximate amount of Category I and Category II ACM in the affected part of the facility that will not be removed before demolition.

42. 40 C.F.R. § 61.145(c)(1) provides that the owner or operator of a demolition or renovation activity described in 40 C.F.R. § 61.145 (a)(1) and (a)(4), shall remove all RACM from a facility before any activity begins that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal.

43. 40 C.F.R. § 61.145(c)(1)(i) provides that RACM need not be removed before demolition if it is Category I nonfriable ACM that is not in poor condition and is not friable.

44. 40 C.F.R. § 61.145(c)(6)(i) provides that the owner or operator of a demolition or renovation activity subject to the Asbestos NESHAP must adequately wet all RACM, including the material that has been removed or stripped, and ensure that it remains wet until collected and contained or treated in preparation for disposal.

45. 40 C.F.R. § 61.145(c)(8) provides that no RACM may be stripped, removed, or otherwise handled or disturbed at a facility regulated under the Asbestos NESHAP unless at least one on-site representative, such as a foreman or management-level person or other authorized representative, trained in the Asbestos NESHAP is present. In addition, this Section provides that every two years the trained on-site individual shall receive refresher training in the provisions of the Asbestos NESHAP.

46. 40 C.F.R. § 61.150(a) provides that owners or operators of a demolition or renovation activity subject to 40 C.F.R. § 61.145, among others, of the Asbestos NESHAP must discharge no visible emissions to the outside air during the collection, processing, packaging, or transporting of any asbestos-containing waste material generated during such demolition or renovation activity or must follow one of the specified emission control and waste treatment methods.

47. 40 C.F.R. § 61.150(a)(1) specifies one of those emission control and waste treatment methods, which requires adequately wetting asbestos-containing waste material. As part of complying with this method, 40 C.F.R. § 61.150(a)(1)(iii) requires that, after wetting, all

ACWM is sealed in leak-tight containers while wet, or, for materials that will not fit into containers without additional breaking, put into leak-tight wrapping.

48. 40 C.F.R. § 61.150(a)(3) specifies another of those emission control and waste treatment methods. To comply with this method, 40 C.F.R. § 61.150(a)(3) requires that for facilities demolished where the RACM is not removed prior to demolition according to §§ 61.145(c)(1)(i), (ii), (iii), and (iv) or for facilities demolished according to 40 C.F.R. § 61.145(c)(9), the owner or operator must adequately wet ACWM at all times after demolition and keep it wet during handling and loading for transport to a disposal site. ACWM covered by 40 C.F.R. § 61.150(a)(3) does not have to be sealed in leak-tight containers or wrapping but may be transported and disposed of in bulk.

49. 40 C.F.R. § 61.150(b)(1) provides (with one exception not relevant here for Category I nonfriable ACM that is not RACM) that all ACWM must be deposited as soon as is practical by the waste generator at a waste disposal site operated in accordance with the provision of 40 C.F.R. § 61.154.

50. 40 C.F.R. § 61.150(d) provides that each owner or operator of any source subject to the Asbestos NESHAP must maintain waste shipment records for all asbestos-containing waste material transported off the facility site for at least 2 years.

51. 40 C.F.R. § 61.150(e) provides that each owner or operator of any source subject to the Asbestos NESHAP must furnish upon request and make available for inspection by EPA, all records required under 40 C.F.R. § 61.150, which would include waste shipment records.

III. FINDINGS OF FACT

52. The factual findings set forth below are based on an investigation conducted by EPA, Region 2. That investigation involved an EPA inspection of the Facility on July 24, 2024, and discussions with the New Jersey Department of Labor (“NJDOH”) and the New Jersey Department of Health (“NJDOH”).

53. The Facility consists of two (2) installations across the street from each other. The first installation located at 49 Gingerbread Castle Road, Hamburg, New Jersey 07419 (“Demolition Site”) is a former grain facility and warehouse industrial site, which contains at least the following three structures: 1) a seven story concrete building (“7-story building”); 2) an eleven (11) story concrete building (“11-story building”), and 3) a historic stone building. The second installation located at 30 Gingerbread Castle Road, Hamburg, New Jersey 07419 (“Temporary Debris Site”) is a commercial 6.63-acre lot with a 1 story building. The Facility is not currently fenced off from the public.

54. The Demolition Site is owned by Daoftre.

55. The Temporary Waste Site is owned by Winners.

56. Bella is the Facility’s former demolition contractor.

57. The Facility’s current asbestos consultant is nonparty Marino Corporation USA (“Marino”).

58. The Facility is managed and operated by Selini, which is the future tenant of a proposed warehouse to be constructed onsite at the Facility.

59. On May 20, 2024, Marino and the NJDOL took samples from the Demolition Site debris pile; Marino took seven samples and NJDOL took eight samples.

60. The NJDOL used EMSL Analytical, a National Voluntary Laboratory Accreditation Program (“NVLAP”) certified laboratory, to analyze its samples. The laboratory results showed that 6 out of the 8 samples were positive for greater than one percent ACM.

61. Marino used SanAir Technology Laboratory, an NVLAP certified laboratory, to analyze its samples. The laboratory results showed that five out of the seven samples tested positive for greater than one percent ACM.

62. On June 25, 2024, NJDOL informed EPA that the 11-story building containing ACM was demolished and the 7-story building containing ACM was partially demolished by Bella.

63. On July 24, 2024, EPA inspected the Facility (“the inspection”). Inspectors from the NJDOL and the NJDOH, and construction officials from the Township of Hardyston were present at this inspection. During the inspection, EPA inspectors:

- a. Asked Joseph Park, vice president of Selini (“Mr. Park”), if Selini conducted an inspection of the 11-story and the 7-story buildings prior to the demolition to identify ACM. Mr. Park stated that no asbestos inspections were conducted prior to the demolition.
- b. Saw that the 11-story building was completely demolished. However, EPA inspectors noticed that only a small quantity of debris was left at the

Demolition Site. EPA inspectors also saw that the 7-story building was partially demolished, with most of the building remaining.

- c. Saw that no water had been used to wet the debris and that there was no wetting equipment at the Facility. EPA inspectors informed Mr. Park that the debris must be kept wet at all times until it is disposed of off-site.
- d. Spoke with a Bella representative about the requirement to have a certified Asbestos Supervisor/Foreman onsite. EPA inspectors asked the Bella representative if such a person was onsite during the demolition of the 11-story and 7-story buildings. The Bella representative stated that the previous foreman, an employee of, nonparty, Siteworks Services NJ, Inc. , was supposed to be asbestos certified. However, the Bella representative also stated that they had not personally verified the employee of Siteworks Services NJ, Inc.'s credentials.
- e. Asked Mr. Park where the demolition debris was sent for disposal. Mr. Park stated that the demolition debris has not been sent out for final disposal and was currently staged across at the Temporary Debris Site.
- f. Visited the Temporary Debris Site and saw that the debris onsite appeared to be buried. The EPA inspectors also noted that the quantity of debris at the Temporary Debris Site did not seem equal to the debris that would have been generated by the demolition of the 11-story and 7-story buildings. The Bella representative confirmed Mr. Park's statement about

the waste. Specifically, the Bella representative said that no waste had been removed from the Facility to a landfill or for recycling. The Bella representative further explained that the original plan was to bring the concrete off-site to be crushed and noted that this had not yet occurred.

- g. Noted, while at the Temporary Debris Site, that there were numerous, seemingly buried, mounds of construction and demolition (“C&D”) debris. Mr. Park claimed that they had not seen this C&D debris prior to the EPA’s inspection. Mr. Park further stated that they did not think that these mounds of C&D debris were part of the project at the Demolition Site.
- h. Found, while at the Temporary Debris Site, a second pile of debris further into the property, which appeared to contain non-construction waste. Mr. Park similarly stated that they had not seen this waste prior to the EPA’s inspection and was also unaware of its presence.

64. Following up on the inspection, on September 5, 2024, EPA inspectors emailed Mr. Park and asked if a notification was sent to the EPA for the demolition work for the 11-story and 7-story buildings. Mr. Park replied that they were unaware if any notifications were sent to the EPA.

65. On September 18, 2024, Marino, on behalf of Selini, submitted an asbestos contaminated demolition debris remediation plan (“Work Plan”) to the EPA for the Facility. On October 15, 2024, EPA requested revisions to the Work Plan.

66. On November 6, 2024, Respondents sent the EPA an updated Work Plan implementing the October 15, 2024, revisions. On November 14, 2024, the EPA approved Respondents November 6, 2024, Work Plan.

IV. CONCLUSIONS OF LAW

Based on the findings of fact set forth above, the EPA reaches the following conclusions of law:

67. Each Respondent is a “person” within the meaning of Section 302(e) of the Act.

68. The Facility, located at the Demolition Site and the Temporary Debris Site, is a “facility” within the meaning of 40 C.F.R. § 61.141.

69. The Project occurring at the Facility constitutes a “demolition” within the meaning of 40 C.F.R. § 61.141.

70. Respondents are each an “owner or operator of a demolition or renovation activity” in relation to the Facility pursuant to 40 C.F.R. § 61.141.

71. The affected demolition activity at the Facility occurred at an “installation” as defined by 40 C.F.R. § 61.141.

72. At all relevant times, the demolition located at the Facility is and has been subject to the Asbestos NESHAP, 40 C.F.R. Part 61, Subpart M.

73. Respondents are in violation of 40 C.F.R. § 61.145(a) for failing to thoroughly inspect the 11-story and 7-story buildings at the Demolition Site where the demolition operation will occur for the presence of asbestos, including Category I and Category II nonfriable ACM.

74. Respondents are in violation of 40 C.F.R. § 61.145(b)(1) for failing to provide the Administrator with written notice of intention to demolish the 11-story and 7-story buildings at the Facility.

75. Respondents are in violation of 40 C.F.R. § 61.145(c)(1) for failing to remove all RACM from a facility being demolished before any activity begins that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal.

76. Respondents are in violation of 40 C.F.R. § 61.145(c)(6)(i) for failing to adequately wet the RACM found at the Facility, at minimum, on the day of the EPA's inspection on July 24, 2024.

77. Respondents are in violation of 40 C.F.R. § 61.150(a)(3) for failing to ensure that the RACM found at the Facility remained wet until collected and contained or treated in preparation for disposal.

78. Respondents are in violation of 40 C.F.R. § 61.145(c)(8) for failing to have at least one on-site representative, such as a foreman or management-level person or other authorized representative, trained in the provisions of the asbestos regulations and the means of complying with them, present from August 18, 2023, to December 12, 2023.

V. ENFORCEMENT

Section 113 of the CAA authorizes the EPA to take any of the following actions in response to a respondent's violation(s) of the CAA and regulations promulgated thereunder:

- Issue an order requiring compliance with the requirements or prohibitions of the Act;

- Issue an administrative penalty order in accordance with CAA Section 113(d); or
- Bring a civil action in accordance with CAA Section 113(b) for civil penalties and/or injunctive relief.

Furthermore, for any person who knowingly violates any requirement or prohibition of the Act for more than thirty (30) days after the date of the issuance of an FOV, Section 113(c) of the Act provides for criminal penalties or imprisonment, or both. In addition, under Section 306 of the Act, the regulations promulgated thereunder (40 C.F.R. Part 15), and Executive Order 11738, facilities to be utilized in federal contracts, grants, and loans must be in full compliance with the Act and all regulations promulgated pursuant thereto. Violation of the Act may result in the subject facility, or other facilities owned or operated by the Respondents, being declared ineligible for participation in any federal contract, grant, or loan program.

The issuance of this FOV does not preclude the EPA from electing to pursue any other remedies or sanctions authorized by law to address the violations described herein.

VI. PENALTY AUTHORITY

Section 113(e)(1) of the Act provides that if a penalty is assessed pursuant to Section 113 of the Act, the EPA or the court, as appropriate, shall, in determining the amount of the penalty to be assessed, take into consideration the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good-faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties

previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and other factors as justice may require.

Section 113(e)(2) of the Act allows the EPA or the court, as appropriate, to assess a penalty for each day of violation. In accordance with Section 113(e)(2) of the Act, the EPA will consider a violation to continue from the date the violation began until the date Respondents establish that they have achieved continuous compliance. If Respondents prove that there was an intermittent day of compliance or that the violation was not continuous in nature, the EPA will reduce the penalty accordingly.

VII. OPPORTUNITY FOR CONFERENCE

Respondents may request a conference with the EPA concerning the violations alleged in this FOV. This conference will enable the Respondents to present evidence bearing on the findings of violation, on the nature of the violation, and on any efforts the Respondents may have taken or may propose to take to achieve compliance. The Respondents may arrange to be represented by legal counsel.

The Respondents' request for a conference must be confirmed in writing within ten calendar days of receipt of this FOV. The request for a conference, or other inquiries concerning this FOV, should be made by email to basile.cassandra@epa.gov or in writing to:

Cassandra Basile
Assistant Regional Counsel
U.S. Environmental Protection Agency - Region 2
Office of Regional Counsel, Air Branch
290 Broadway - 16th Floor
New York, New York 10007-1866
(212) 637-3234

Notwithstanding the effective date of this FOV and opportunity for a conference discussed above, the Respondents must comply with all applicable requirements of the Act.

Issued: 1/8/25

**KATHLEEN
ANDERSON** Digitally signed by
KATHLEEN ANDERSON
Date: 2025.01.08
14:55:12 -05'00'

Kathleen Anderson, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region 2

To: Daofre Capital Group, LLC
Joseph Park, Owner/Registered Agent
Joseph@selininy.com

and

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and

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