

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE OF COMPLIANCE & INSPECTION

IN RE: ANERI REALTY, INC.  
AISHA LLC  
AMINIA, LLC

FILE NO.: OCI-UST-19-25-00766

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 Department of Environmental Management (the “Director” of “DEM”) has reasonable grounds to believe that the above-named parties (“Respondents”) have violated certain statutes and/or administrative regulations under DEM's jurisdiction.

B. Administrative History

On 13 February 2019, DEM issued an informal written notice to ANERI REALTY, INC. for the violations that are the subject of this *Notice of Violation* (“NOV”). The letter required specific actions to correct the violations. ANERI REALTY, INC. failed to comply with the requirements set forth in the informal written notice. On 22 April 2019, DEM issued a *Notice of Intent to Enforce* (“NIE”) to Respondents for the violations that are the subject of the NOV. The NIE required specific actions to correct the violations. Respondents failed to comply with the remedial requirements set forth by DEM in the NIE.

C. Facts

- (1) The property is located at 1100 Main Street, Assessor’s Plat 45, Lot 45 in the Town of Coventry, Rhode Island (the “Property”). The Property includes a convenience store and a motor fuel storage and dispensing system (the “Facility”).
- (2) Respondent ANERI REALTY, INC. owns the Property.
- (3) Respondents AISHA LLC and Aminia, LLC are the operators of the Facility.
- (4) Respondents are the owner and operators of 3 underground storage tanks (“USTs” or “tanks”) located on the Property, which tanks are used for storage of petroleum products and which are subject to the Rhode Island Code of Regulations titled *Rules and Regulations for Underground Storage Facilities Used for Regulated Substances and Hazardous Materials (250-RICR-140-25-1)* (the “UST Regulations”).
- (5) The Facility is registered with DEM and is identified as UST Facility No. 00766.

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

UST ID No.	Date Installed	Capacity	Product Stored
004	17 June 1998	8,000 gallons	Gasoline
005	17 June 1998	8,000 gallons	Gasoline
006	17 June 1998	8,000 gallons	Gasoline

- (7) On 12 February 2019, Compliance Testing Services, Inc. (“CTS”) notified DEM that they had performed tightness testing of UST Nos. 004, 005 and 006 and the product pipelines on 11 February 2019. CTS reported the following:
- (a) The interstitial spaces of UST Nos. 004, 005 and 006 met the criteria for passing;
  - (b) The secondary product pipelines for UST Nos. 004/005 and 006 failed the tightness test; and
  - (c) The primary product pipelines for UST Nos. 004/005 and 006 met the criteria for passing.
- (8) On 25 February 2019, DEM received the original copy of the tightness test report.
- (9) On 17 April 2019 and 22 May 2019, DEM inspected the Facility and determined the following:
- (a) Respondents had not repaired or replaced the product pipelines in accordance with the UST Regulations;
  - (b) Respondents had not placed UST Nos. 004, 005 and 006 into temporary closure in accordance with the UST Regulations; and
  - (c) Respondents were continuing to operate UST Nos. 004, 005 and 006.
- (10) On 18 June 2019, DEM received an interstitial space tightness test report for the product pipelines for UST Nos. 004/005 and 006, which was prepared by CTS on behalf of Respondents. CTS reported that the secondary pipelines were tested on 6 June 2019 and that they met the criteria for passing.
- (11) As of the date of the NOV, DEM has not received any information from Respondents regarding any pipeline modifications or repairs that were made prior to the 6 June 2019 tightness test.
- (12) On 31 January 2020, DEM representatives inspected the Facility and observed that new test boots had been installed for the product pipelines beneath each dispenser.
- (13) Respondents failed to submit written notification to and obtain the approval of DEM before making the modifications to the product pipelines.

- (14) As of the date of the NOV, Respondents have failed to submit to DEM a *Release Characterization Report*.

D. Violation

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

- (1) **UST Regulations, Part 1.10(G)(2)(d)(1)** – restricting the consumption of remaining product in a UST after a failed secondary product pipeline tightness test to no more than 30 days and prohibiting the addition of product into the UST until the piping is repaired or replaced.
- (2) **UST Regulations, Part 1.10(G)(2)(d)(5)** – requiring either the repair or replacement of failed product pipelines within 60 days of the tightness test failure or the temporary closure of the effected UST systems.
- (3) **UST Regulations, Part 1.10(H)(4)** – requiring the submittal of a written tightness test report to DEM within 7 days of a failed tightness test.
- (4) **UST Regulations, Part 1.10(H)(6) and Part 1.14(G)(1)** – requiring owners/operators to submit a Release Characterization Report to DEM within 7 days of a failed tightness test.
- (5) **UST Regulations, Subsections 12(A) and 12(D)(1)(a)** – prohibiting the repair or modification of regulated UST systems without prior written notification to and approval by DEM.

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 complete the following remedial actions:

- (1) **Within 7 days of receipt of the NOV**, submit to DEM’s Office of Compliance and Inspection a Release Characterization Report prepared in accordance with Part 1.10(H)(6) and Part 1.14(G)(1) of the UST Regulations.
- (2) **Within 30 days of receipt of the NOV**, submit to OC&I a written report detailing the repairs or modifications that were made to the product pipelines for UST Nos. 004/005 and 006 prior to the 6 June 2019 tightness tests. Respondents shall include a completed *Application for Repair or Modification of Product Piping*. Respondents shall also submit all supporting documentation required by DEM’s Office of Waste Management UST Management Program (“OWM”). OWM may also require additional testing of Facility components as part of the approval process. Respondents full cooperation with OWM is required to fulfill the requirements of this Order.

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:

**\$10,250**

- (2) The proposed administrative penalty is calculated pursuant to the Rhode Island Code of Regulations titled *Rules and Regulations for Assessment of Administrative Penalties (250-RICR-130-00-1)* and must be paid to DEM within 30 days of your receipt of the NOV. Payment shall be in the form of a certified check, cashier's check or money order made payable to the "General Treasury - Water & Air Protection Program" and shall be forwarded to DEM's Office of Compliance and Inspection, 235 Promenade Street, Suite 220, Providence, Rhode Island 02908-5767.
- (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 the Director 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 DEM'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 DEM'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  
DEM - 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); **AND**
  - (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 the Rhode Island Code of Regulations titled *Rules and Regulations for the Administrative Adjudication Division (250-RICR-10-00-1)*.
- (2) A copy of each request for hearing must also be forwarded to:
- Joseph J. LoBianco, Esquire  
DEM - Office of Legal Services  
235 Promenade Street, Suite 425  
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 DEM'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 with regard to 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 Town of Coventry, Rhode Island, 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, you may contact (or if you are represented by an attorney, please have your attorney contact) Joseph J. LoBianco of DEM's Office of Legal Services at (401) 222-6607. All other inquiries should be directed to Tracey Tyrrell of DEM's Office of Compliance and Inspection at (401) 222-1360 ext. 7407.

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  
Office of Compliance and Inspection

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

CERTIFICATION

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

ANERI REALTY, INC.  
c/o Joseph A. Lamagna, Registered Agent  
2417 Mendon Road  
Woonsocket, RI 02895

AISHA LLC  
c/o Mian Umar Saleem, Resident Agent  
18228 Patriot Way  
West Greenwich, RI 02817

Aminia, LLC  
c/o Raymond Bruzzese, CPA, Resident Agent  
95 Warwick Avenue  
Cranston, RI 02905

by Certified Mail.

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<b>ADMINISTRATIVE PENALTY SUMMARY</b>	
Program:	OFFICE OF COMPLIANCE AND INSPECTION, UST COMPLIANCE
File No.:	OCI-UST-19-25-00766
Respondents:	ANERI REALTY, INC., AISHA LLC and AMINIA, LLC

<b>GRAVITY OF VIOLATION</b>					
SEE ATTACHED "PENALTY MATRIX WORKSHEETS."					
VIOLATION NO. & CITATION	APPLICATION OF MATRIX		PENALTY CALCULATION		AMOUNT
	Type	Deviation	Penalty from Matrix	Number or Duration of Violations	
D (1) and (2) – Operating the UST systems with deficient secondary pipelines	Type I <i>(\$25,000 Max. Penalty)*</i>	Minor	\$4,375	1 violation	\$4,375
D (3) and (4) – Failure to submit the test report and a Release Characterization Report	Type II <i>(\$12,500 Max. Penalty)*</i>	Minor	\$1,500	1 violation	\$1,500
D (5) – Modifying the UST systems without prior DEM approval	Type I <i>(\$25,000 Max. Penalty)*</i>	Minor	\$4,375	1 violation	\$4,375
<b>SUB-TOTAL</b>					<b>\$10,250</b>

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

<b>ECONOMIC BENEFIT FROM NON-COMPLIANCE</b>
COSTS OF COMPLIANCE, EQUIPMENT, O&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: - THERE IS NO IDENTIFIABLE BENEFIT FROM NON-COMPLIANCE; OR - THE AMOUNT OF ECONOMIC BENEFIT CANNOT BE QUANTIFIED.
A review of the record in this matter has revealed that Respondents have either enjoyed no identifiable benefit from the non-compliance alleged in this enforcement action or that the amount of economic benefit that may have resulted cannot be quantified.

## **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 DEM 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 = \$10,250**



# PENALTY MATRIX WORKSHEET

CITATION: Operating the UST systems with deficient secondary product pipelines  
 VIOLATION NOs.: D (1) and (2)

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

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

**FACTORS CONSIDERED:**

Taken from Part 1.10(A)(1)(b) of the Rhode Island Code of Regulations titled *Rules and Regulations for Assessment of Administrative Penalties (250-RICR-130-00-1)*.

- (1) **The extent to which the act or failure to act was out of compliance:** Respondents operated the UST systems from at least 11 February 2019 until 6 June 2019 with deficient secondary pipelines. The operation of UST systems with deficient secondary pipelines is prohibited by the UST Regulations. Failure to comply presents a threat to public health and safety and the environment.
- (2) **Environmental conditions:** The Facility is located in a developed area with numerous potential vapor receptors including residential structures, commercial structures and underground utilities. The Facility is located in a GB groundwater classification zone, which are groundwater resources presumed to be unsuitable for drinking water use without treatment. The Facility is located within 1,000 feet of a groundwater reservoir and within 1,500 feet of a groundwater recharge area. Upon information and belief, there are no private drinking water supply wells proximate to the Facility. The USTs are installed within 50 feet of the Pawtuxet River and 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 a potential public health hazard (due to potential inhalation of benzene) and a potential public safety hazard (due to the potential for explosion). Gasoline can 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. Benzene, a component of gasoline, is a known human carcinogen.
- (5) **Duration of the violation:** Approximately 3 months – Respondents should have ceased operating the UST systems before 11 March 2019.
- (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 when they failed to repair or modify the deficient pipelines or put the UST systems into temporary closure within 30 days of the test failure. Respondents attempted to mitigate the non-compliance by having the pipelines modified in June 2019 to allow for tightness testing, however, the modifications were made without prior written notification to and approval by DEM.
- (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 immediately with the requirements set forth in the UST Regulations. Respondents, as owners and operators of the Facility, had full 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		<b>TYPE I</b>	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 <b>\$4,375</b>	\$1,250 to \$2,500	\$250 to \$1,250

# PENALTY MATRIX WORKSHEET

CITATION: Failure to submit the test report and a Release Characterization Report  
 VIOLATION NOs.: D (3) and (4)

<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;"><u>X</u> <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>		
<p>THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</p>		
<p><b><u>FACTORS CONSIDERED:</u></b></p> <p>Taken from Part 1.10(A)(1)(b) of the Rhode Island Code of Regulations titled <i>Rules and Regulations for Assessment of Administrative Penalties (250-RICR-130-00-1)</i>.</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 submit an original copy of the failed secondary product pipeline tightness test report to DEM within 7 days of the failed tests and have failed to submit a Release Characterization Report to DEM. Failure to comply withholds vital information from the regulatory agency, which may hinder the agency’s mission of protecting public health and safety and the environment.</li> <li>(2) <b>Environmental conditions:</b> The Facility is located in a developed area with numerous potential vapor receptors including residential structures, commercial structures and underground utilities. The Facility is located in a GB groundwater classification zone, which are groundwater resources presumed to be unsuitable for drinking water use without treatment. The Facility is located within 1,000 feet of a groundwater reservoir and within 1,500 feet of a groundwater recharge area. Upon information and belief, there are no private drinking water supply wells proximate to the Facility. The USTs are installed within 50 feet of the Pawtuxet River and 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 a potential public health hazard (due to potential inhalation of benzene) and a potential public safety hazard (due to the potential for explosion). Gasoline is capable of causing significant soil and groundwater contamination if released to the environment. Benzene, a component of gasoline, is a known human carcinogen.</li> <li>(5) <b>Duration of the violation:</b> Respondents should have submitted the reports to DEM on or before 18 February 2019. The original copy of the tightness test report was not received by DEM until 25 February 2019. Respondents have yet to submit a Release Characterization Report to DEM.</li> <li>(6) <b>Areal extent of the violation:</b> Considered, but not utilized for this calculation.</li> </ol>		
(continued)		

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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondents failed to prevent the non-compliance by submitting an original copy of the tightness test report and a Release Characterization Report to DEM within 7 days. Respondents submitted the original tightness test report to DEM on 25 February 2019. As of the date of the NOV, Respondents had yet to submit the required Release Characterization Report.
- (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 the failure to comply with the requirements set forth in the UST Regulations. As owners and operators of the Facility, Respondents had full control over the occurrence of the violations. The requirements and procedures for submitting failed secondary pipeline tightness test reports and Release Characterization Reports to DEM are clearly established in the UST Regulations.
- (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: Modifying the UST systems without prior DEM approval  
 VIOLATION NO.: D (5)

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

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

**FACTORS CONSIDERED:**

Taken from Part 1.10(A)(1)(b) of the Rhode Island Code of Regulations titled *Rules and Regulations for Assessment of Administrative Penalties (250-RICR-130-00-1)*.

- (1) **The extent to which the act or failure to act was out of compliance:** Respondents modified the product pipelines by installing test boots at the piping termini beneath each dispenser. The modifications were made without prior written notification to an approval by the Director of DEM, which is prohibited by the UST Regulations. Failure to comply prevents DEM from assuring that the work is performed by qualified persons in accordance with the National Codes of Practice set forth in the UST Regulations, all components are tested as required and all of the work is properly documented.
- (2) **Environmental conditions:** The Facility is located in a developed area with numerous potential vapor receptors including residential structures, commercial structures and underground utilities. The Facility is located in a GB groundwater classification zone, which are groundwater resources presumed to be unsuitable for drinking water use without treatment. The Facility is located within 1,000 feet of a groundwater reservoir and within 1,500 feet of a groundwater recharge area. Upon information and belief, there are no private drinking water supply wells proximate to the Facility. The USTs are installed within 50 feet of the Pawtuxet River and 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 a potential public health hazard (due to potential inhalation of benzene) and a potential public safety hazard (due to the potential for explosion). Gasoline can 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. Benzene, a component of gasoline, is a known human carcinogen.
- (5) **Duration of the violation:** Considered, but not utilized for this calculation.
- (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 when they failed to submit an Application for Repair or Modification of Product Piping to DEM and obtain DEM's approval before making any modifications to the product pipelines. Other than submitting the post-modification tightness test report, Respondents have yet to mitigate the non-compliance.
- (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 immediately with the requirements set forth in the UST Regulations. Respondents, as owners and operators of the Facility, had full 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>	<b><u>X</u> MINOR</b>
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		<b>TYPE I</b>	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 <b>\$4,375</b>	\$1,250 to \$2,500	\$250 to \$1,250