

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In the matter of:

	:	
	:	
PBF Logistics Products Terminals LLC	:	Violations of the Storage Tank and Spill Prevention Act and 25 Pa. Code Chapter 245
	:	
	:	

**CONSENT ORDER AND AGREEMENT**

This Consent Order and Agreement is entered into this 15<sup>th</sup> day of December, 2021, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department"), and PBF Logistics Products Terminals LLC ("PLPT").

The Department has found and determined the following:

- A. The Department is the agency with the duty and authority to administer and enforce the Storage Tank and Spill Prevention Act, Act of July 6, 1989, P.L. 169, No. 32, as amended, 35 P.S. §§ 6021.101 et seq., ("Tank Act"); the Land Recycling and Environmental Remediation Standards Act, Act of May 19, 1995, P.L. 4, No. 1995-2, 35 P.S. §§ 6026.101 et seq., ("Act 2"); the Pennsylvania Clean Streams Law, the Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. §§ 691.1 et seq., ("Clean Streams Law"); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. § 510-17 ("Administrative Code") and the regulations promulgated thereunder.
- B. PBF Logistics Products Terminal ("Facility") is a petroleum terminal located at 6850 Essington Avenue, City of Philadelphia, Philadelphia County. The Facility, including its storage tank systems, as that term is defined at 25 Pa. Code § 245.1, is registered with the Department under the name PBF Logistics Prod Term, Facility Identification Number 51-26277.
- C. PLPT is a Delaware limited liability company doing business in the Commonwealth of Pennsylvania with a mailing address of 1 Sylvan Way, Floor 2 Parsippany, NJ 07045-3887. Jim Fedena is the contact person for PLPT.
- D. PLPT currently owns the real property on which the Facility is located and owns or has an ownership interest in the storage tanks, as that term is defined in 35 P.S. § 6021.103, at the Facility. PLPT is an owner as that term is defined in 35 P.S. § 6021.103, and a

landowner, as that term is used in 35 P.S. §§ 6021.1302 and 6021.1310.

- E. PLPT currently occupies the real property on which the Facility is located and manages, supervises, alters, controls or has responsibility for the operation of the storage tanks at the Facility. PLPT is an operator as that term is defined in 35 P.S. § 6021.103, and an occupier, as that term is used in 35 P.S. §§ 6021.1302 and 6021.1310.
- F. PLPT owns and operates 37 aboveground storage tank systems (“AST system”) and 2 underground storage tank systems (“UST system”) at the Facility as those terms are defined under 25 Pa. Code § 245.1, and are operating under permits pursuant to 25 Pa. Code § 245.203.
- G. Pursuant to 25 Pa. Code § 245.526(c), for aboveground storage tanks (“AST”), “piping in contact with the soil or an electrolyte shall be adequately protected from corrosion in accordance with current codes of practice developed by Nationally recognized associations such as NACE or API.”
- H. Pursuant to 25 Pa. Code § 245.526(d), “[p]iping shall be tested and inspected in accordance with current industry practices and §§ 245.552 and 245.553 (relating to in-service inspections; and out-of-service inspections).”
- I. Pursuant to 25 Pa. Code §§ 245.552(b)(6) and 245.553(b)(7), respectively, in-service and out-of-service inspections must evaluate ancillary equipment, including piping. Pursuant to 25 Pa. Code § 245.552(c)(3), in-service inspections must be conducted every 5 years.
- J. Pursuant to 25 Pa. Code § 245.542(d)(2), “[a]boveground storage tanks must have emergency containment structures, such as dike fields, curbing and containment collection systems, which contain releases from overfills, leaks, and spills.... Emergency containment structures for aboveground storage tanks installed on or before October 11, 1997, must meet one of the following standards:”
  - (i) permeability of newly installed or replacement emergency containment structures or emergency containment structures for aboveground storage tanks installed after October 11, 1997, must be less than  $1 \times 10^{-6}$  cm/sec at anticipated hydrostatic head and be of sufficient thickness to prevent the released substance from penetrating the containment structure for a minimum of 72 hours, and until the release can be detected and recovered; or
  - (ii) verification by a professional engineer that the emergency containment structure, coupled with the tank monitoring program and response plan, is capable of detecting and recovering a release and is designed to prevent contamination of the waters of this Commonwealth. Verification may be conducted in a manner consistent with the Department’s technical document entitled “Verification of Emergency Containment Structures for Aboveground Storage Tanks” or in a manner at least as protective of public health and safety and the environment and which meets all statutory and regulatory

requirements. Verification of earthen structures should include determination of the containment structure permeability following Nationally recognized testing methods.

- K. Pursuant to 25 Pa. Code § 245.542(e), emergency containment areas must be able to contain 110% of the capacity of the largest aboveground storage tank in the containment area.
- L. On January 15, 2019, PLPT excavated a 38-foot section of corroded buried pipe (the "Affected Piping") running underneath an earthen vehicle access ramp approximately 10 feet from the interior face of a dike wall of the "South Yard Shared Earthen Emergency Containment Structure" at the Facility, also known as emergency containment structure #2. Upon excavating the Affected Piping, PLPT identified a pinhole in the Affected Piping measuring 9.0 square millimeters from which petroleum product had been leaking slowly for many years.
- M. The shared earthen AST system emergency containment structure failed to contain the gasoline product that had leaked from the pipe. PLPT determined that petroleum product had leaked into areas both within and outside of the South Yard Shared Earthen Emergency Containment Structure.
- N. On January 18, 2019, repairs were completed on the Affected Piping by replacing the leaking section of pipe. The pipe and the AST systems were immediately returned to service.
- O. On January 28, 2019, the Department conducted a multi-program site visit and inspection at the Facility.
- P. In the narrative report for the Department's January 29, 2019 site visit that was emailed to PLPT representatives on February 1, 2019, the Department requested that PLPT evaluate all buried AST system piping, evaluate and repair the shared earthen emergency containment structures and have a recertification completed on the South Yard AST emergency containment structures by a Professional Engineer ("P.E.") in accordance with 25 Pa. Code §§ 245.542(d) and 245.542(e).
- Q. On April 3, 2019, the Department conducted a second multi-program site visit and inspection at the Facility.
- R. PLPT representatives stated that evaluation of the piping and evaluation, repair and recertification of the shared earthen emergency containment structures is still ongoing.
- S. On April 12, 2019, the Department issued a Notice of Violation ("NOV") to PLPT for violations relating to the Affected Piping and failure of the AST emergency containment structure to contain the petroleum product that was released from the Affected Piping.
- T. PLPT's failure to adequately protect piping in contact with soil or an electrolyte from corrosion in accordance with current codes of practice developed by Nationally

recognized associations, as described in Paragraph L, is a violation of 25 Pa. Code § 245.526(c).

- U. The failure of the AST emergency containment structure to contain the release at the PLPT Facility, as described in Paragraph M, is a violation of 25 Pa. Code § 245.542(d).
- V. On June 20, 2019, July 17, 2019 and September 4, 2019, the Department sent e-mails to PLPT requesting updates on the resolution of all piping and emergency containment issues at the Facility.
- W. On June 20, 2019, July 24, 2019 and September 17, 2019, the Department received e-mail responses from PLPT indicating that piping and emergency containment evaluations are underway and ongoing.
- X. During a November 15, 2019 meeting between PLPT representatives and the Department, the Department requested several items from PLPT representatives, including a copy of the most recent American Petroleum Institute (“API”) 570 piping inspection report, a current P.E. certification of the shared earthen AST emergency containment structures at the Facility and an aggressive schedule for the completion of evaluation, repairs and recertification of the piping and emergency containment.
- Y. PLPT representatives stated that they will forward the requested documentation and provide an aggressive schedule for the completion of required items to the Department.
- Z. PLPT representatives further stated that all outstanding actions identified by PLPT in the November 15, 2019 meeting should be completed by the first quarter of 2020.
- AA. On November 22, 2019, the Department received by e-mail an API 570 inspection report completed March 2013 and a the Facility’s then-current Federal Spill Prevention, Control and Countermeasures (“SPCC”) plan that contained a P.E. certification of the earthen shared AST emergency containment structures with a P.E. signature dated October 7, 2009.
- BB. In a separate e-mail received by the Department, PLPT representatives stated that the completion of the piping evaluation will occur by January 2020 and the emergency containment evaluation, repair and recertification will be completed by March 2020 with contingencies on weather.
- CC. On December 5, 2019, the Department requested the full API 653 inspection reports for several AST systems inspected at the Facility from Department certified inspection companies U.N.I Engineering Inc. (“UNI”) and DJA Inspection Services (“DJA”) dating back to 2012.
- DD. On December 12, 2019, the Department responded to PLPT via e-mail stating that the P.E. certification for all of the Facility’s shared AST containment structures in the SPCC plan does not meet the Departments regulatory requirements under 25 Pa. Code §

245.542(d)(2)(ii) and a P.E. certification of the emergency containment structures is still required.

- EE. The Department asked the PLPT representative if they had a more recent API 570 piping inspection completed at the Facility. In accordance with industry standards, another API 570 piping inspection should have been completed five years from the previous API 570 inspection in addition to Department required in-service and out-of-service tank system inspections every five years.
- FF. On December 13, 2019, the Department received an e-mail from a PLPT representative stating that the buried piping inspections under vehicular ramps were completed and reports will be submitted to the Department.
- GG. After making an independent inquiry regarding past inspection practices at the facility, the Department determined that buried piping had not been evaluated or inspected during several previous in-service and out-of-service inspections of the AST systems at the Facility.
- HH. On December 20, 2019, a PLPT representative responded to the Department's e-mail sent on December 12, 2019 and stated that the API 570 piping inspection report is the most recent report available and that PLPT anticipates a new API 570 piping inspection report will be completed by January 2020.
- II. The PLPT representative also stated that the API 570 piping inspection was started in 2018 but was suspended in 2019 due to the response to PLPT's discovery of a release from the Affected Piping.
- JJ. On January 31, 2020, the Department received an API 570 piping inspection report dated January 2020 from PLPT for the Facility's south tank field via e-mail.
- KK. On March 20, 2020, the Department sent an e-mail request to PLPT representatives requesting an update on the emergency containment certification.
- LL. The Department also advised PLPT representatives that the API 570 inspection report noted several deficiencies of the piping and made several recommendations. The Department inquired if all deficiencies were addressed and requested a date for when all projects will be completed.
- MM. On March 27, 2020, the Department received an e-mail response from PLPT regarding the emergency containment which stated that PLPT is still working on the emergency containment certification.
- NN. On April 17, 2020, the Department received two e-mails from a PLPT representative regarding ongoing repair and certification activity at the Facility. The emergency containment certification had not been completed and there were delays due to weather.

- OO. On May 1, 2020, the Department received an e-mail from a PLPT representative stating that the emergency containment structure near the observed leak from the Affected Piping was repaired and recertified by a P.E.
- PP. The engineer certification provided to the Department addressed the specific area near the Affected Piping and is not a Facility-wide engineer certification of all AST emergency containment structures.
- QQ. On May 7, 2020, the Department sent a follow-up e-mail to PLPT representatives requesting a resolution for all piping evaluation and inspections along with a P.E. certification for the Facility's AST emergency containment structures.
- RR. PLPT's failure to complete an in-service API 570 inspection every five years, as described in Paragraph II, above, is a violation of 25 Pa. Code §§ 245.526(d), 245.552 and 245.553.
- SS. PLPT's failure to inspect all ancillary equipment, including buried piping, during in-service and out-of-service AST inspections, as described in Paragraph GG, above, is a violation of 25 Pa. Code §§ 245.526(d), 245.552, and 245.553.
- TT. On May 15, 2020, the Department received an e-mail response from a PLPT representative stating that in accordance with API 570, there were no nonconformance piping issues noted by the inspector, only recommendations.
- UU. The e-mail also stated that PLPT will update all emergency response plans and have a certification performed on AST emergency containment structures in no later than 60 days.
- VV. On May 19, 2020, a second e-mail response was received from a PLPT representative that provided several future completion dates for further evaluation of piping and repairs.
- WW. On July 13, 2020, an updated Spill Prevention Plan ("SPRP") was received by the Department from PLPT's consultant, Environmental Resources Management.
- XX. The SPRP, which was completed by a P.E., stated that the Facility's emergency containment structure for containment area #2 will be repaired and recertified by December 31, 2022.
- YY. The SPRP stated that once containment area #2 is certified by December 31, 2022, the Facility will begin to recertify other emergency containment areas at the Facility.
- ZZ. To date, PLPT reports that it has completed the following corrective action items:
1. In August 2020, PLPT completed an evaluation of buried AST system piping to determine whether cathodic protection is required in any areas to prevent corrosion. The evaluation determined that existing cathodic protection could be enhanced by

extending it to additional tank bottoms and piping in contact with soil at the Facility. PLPT will evaluate and implement such recommended enhancements as appropriate.

2. In September 2020, PLPT completed the repairs to two damaged AST system pipe supports previously identified by a Department certified inspector.
3. In December 2020, PLPT completed an evaluation of excavated unburied AST system piping that was previously buried and determined that the excavated unburied piping in Areas 1 and 2 will remain unburied and two new pipe supports will be installed to replace the existing temporary piping supports.
4. In April 2021, PLPT completed removal of temporary cribbing supports and installation of permanent pipe supports for excavated AST system piping that was previously buried and removal of temporary cribbing and reburial of AST system piping that was previously unburied, as appropriate. The work was performed under the direction of a Department-certified installer with ACVL certification and a modification report was timely submitted to the Department within 30 days of completion of the tank handling activity as required under 25 Pa. Code §§ 245.132(a)(2) and 245.132(a)(2)(ii).
5. In April 2021, PLPT completed the removal of damaged wrappings and recoating of AST system piping at the Facility that is not buried. Piping that remains buried was inspected using guided wave testing which confirmed that that the current wrappings are intact, although such lines will continue to be monitored through future inspections.
6. PLPT has completed the inspection of all buried or close to grade AST system piping at the Facility under the direction of an API 570 inspector and has submitted a final report to the Department.
7. PLPT has provided P.E. certifications for the emergency containment structures identified by the Facility as #1 and #2 in accordance with 25 Pa. Code §§ 245.542(d)(2)(ii) and 245.542(e).

AAA. The Department communicated with PLPT and their representatives that piping evaluations must be conducted, or directly overseen, by an individual with a current Department certification in the category of IAF ("IAF certification") for the inspection to satisfy the requirements of 25 Pa. Code §§ 245.526(d), 245.552, and 245.553.

BBB. On January 29, 2021, PLPT provided the Department a report of a partial API 570 piping inspection completed on October 28, 2020, but the inspection was not completed by someone with an IAF certification so the Department advised PLPT of this deficiency.

CCC. On March 1, 2021, PLPT provided a revised API 570 report that included the name of Department certified IAF inspector Brian Rotto.

- DDD. Subsequent investigation by the Department revealed that Mr. Rotto was not present to conduct or oversee the API 570 inspection activities completed in October of 2020.
- EEE. Another Department interview with Mr. Rotto on November 8, 2021 revealed that Mr. Rotto was not present at the Facility during more recent API 570 inspection activities in 2021 to provide direct, onsite supervision and control of the piping inspection in accordance with 25 Pa. Code § 245.132(a)(2)(ii).
- FFF. During the November 8, 2021 interview, Mr. Rotto also indicated that not all required repairs, upgrades and maintenance on the piping at the Facility are completed.
- GGG. In accordance with 25 Pa. Code § 245.551, aboveground storage tank owners and operators shall have their aboveground storage tank systems inspected by a DEP certified inspector to demonstrate compliance with State and Federal requirements and industry standards, and only DEP certified inspectors shall be used to satisfy requirements for inspections required by 25 Pa. Code §§ 245.552 and 553.
- HHH. PLPT's failure to have a Department certified inspector with IAF certification present at the Facility to conduct or provide onsite supervision and control of the API 570 inspection in October 2020, as described in Paragraphs BBB through EEE, is a violation of 25 Pa. Code § 245.551.
- III. PLPT's operation of ASTs that do not meet applicable emergency containment permeability requirements or have appropriate verification by a P.E., as described in paragraphs DD, PP, and UU is a violation of 25 Pa. Code § 245.542(d)(2).
- JJJ. As described in Paragraphs T, U, RR, SS, HHH, and III, PLPT's actions and violations constitute unlawful conduct under Section 1310 of the Tank Act, 35 P.S. § 6021.1310, and a public nuisance under section 1304 of the Tank Act, 35 P.S. § 6021.1304.
- KKK. Pursuant to Section 1307 of the Tank Act, 35 P.S. § 6021.1307, the Department may assess a civil penalty for a violation of the Tank Act. The civil penalty so assessed shall not exceed Ten Thousand dollars (\$10,000.00) per day for each violation.

After full and complete negotiation of all matters set forth in this Consent Order and Agreement ("CO&A") and upon mutual exchange of covenants contained herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ORDERED by the Department and AGREED to by PLPT as follows:

1. Authority. This CO&A is an Order of the Department authorized and issued pursuant to Sections 107(g) and 1309 of the Tank Act, 35 P.S. §§ 6021.107(g) and 6021.1309; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17.



2. Findings.

- a. PLPT agrees that the findings in Paragraphs A through S, V through QQ, and TT through GGG are true and correct and, in any matter or proceeding involving PLPT and the Department, PLPT shall not challenge the accuracy or validity of these findings.
- b. The parties do not authorize any other persons to use the findings in this CO&A in any matter or proceeding.

3. Corrective Action.

- a. Upon execution of this CO&A, PLPT shall implement an enhanced preventative maintenance and housekeeping program at the Facility, which will include daily monitoring of the AST systems to ensure no potentially hazardous environmental condition exists. PLPT shall keep written records of the daily AST monitoring and provide records to the Department upon request. Daily monitoring shall continue until the termination of this CO&A and implementation of a revised operations and maintenance plan in accordance with Paragraph 3(b), below.
- b. Within 60 days following execution of this CO&A, PLPT shall provide to the Department for its approval a written operation and maintenance plan, as required by 25 Pa. Code § 245.511, that identifies how PLPT will establish and maintain compliance with the preventative maintenance and housekeeping requirements under 25 Pa. Code § 245.513 and compliance with the in-service and out-of-service inspection requirements of AST systems under 25 Pa. Code §§ 245.552 and 245.553, which includes testing and inspection of buried piping along with remedies required to address any deficiencies noted. Should the Department inform PLPT, in writing, that it does not approve the operation and maintenance plan, PLPT will address any deficiencies and comments stated, in writing, by the Department and submit a revised operation and maintenance plan to the Department that addresses deficiencies and comments noted by the Department within 30 days of receipt of the Department's notice.
- c. On or before December 31, 2021, PLPT shall complete the following installation, upgrades and repairs on AST system piping with the appropriate documentation submitted to the Department within the specified days of completion:
  - 1. Installation of cathodic protection systems for buried Facility piping requiring cathodic protection in accordance with 25 Pa. Code §§ 245.526(c) and 245.532 and under the direction of a Department-certified installer with ACVL or AMEX certifications and a submission of a modification

report to the Department within 30 days of completion of the tank handling activity as required under 25 Pa. Code §§ 245.132(a)(2) and 245.132(a)(2)(ii) and inspection by a Department-certified inspector with IAF certification and a submission of a modification inspection summary within 30 days of inspection of the tank handling activity as required under 25 Pa. Code §§ 245.132(a)(2) and 245.132(a)(2)(i).

2. Provide documentation from a DEP-certified contractor that all outstanding piping issues, including paint or coating repairs, as identified in the 2019 piping inspection report from UNI and the 2020 API 570 inspection report from Westtech, have been addressed in accordance with the Department-certified third-party inspections which shall be performed under the direction of the appropriate Department-certified installer with ACVL and AMEX certifications and a submission of a modification report to the Department within 30 days of completion of the tank handling activity as required under 25 Pa. Code §§ 245.132(a)(2) and 245.132(a)(2)(ii) and inspection by a Department-certified inspector with IAF certification and a submission of a modification inspection summary within 30 days of inspection of the tank handling activity as required under 25 Pa. Code §§ 245.132(a)(2) and 245.132(a)(2)(i).

- d. On or before March 31, 2022, PLPT shall have the northern most AST emergency containment structure, identified by PLPT as containment area 3, certified by a P.E. to verify that it meet the performance standards and capacity requirements of 25 Pa. Code §§ 245.542(d)(2)(ii) and 245.542(e) and shall submit to the Department documentation of this certification within 10 days of completion.
- e. PLPT shall complete piping inspections meeting the requirements of 25 Pa. Code §§ 245.552 and 245.553, conducted per the guidelines of API 570 or other applicable Nationally recognized association, and completed by an inspector with a current Department certification in the category of IAF. The Department-certified inspector with IAF certification shall be present at the Facility and shall have direct oversight, onsite supervision and control of all inspection activities in accordance with 25 Pa. Code § 245.132(c)(1)(ii). The piping inspections shall include all underground and aboveground piping for regulated tanks within the emergency containment structures identified below, and completed no later than the following dates:

1. Emergency containment structure #2 by December 31, 2022;
2. Emergency containment structure # 3 by December 31, 2023; and
3. Emergency containment structure #1 by December 31, 2024.

The results of each inspection shall be submitted to the Department within 60 days of completion on a Department approved form, and any recommendations and deficiencies identified by each inspection shall be addressed in a timely manner in accordance with 25 Pa. Code §§ 245.552(e) and 245.553(f).

- f. Following the inspections required by Paragraph 3(e), subsequent piping inspections shall be completed by an inspector with a current Department certification in the category of IAF, no later than five years from the date of the inspections completed in Paragraph 3(e) or as the corrosion rate requires, in accordance with 25 Pa. Code §§ 245.552(d) and 245.553(d).
  - g. Nothing contained in this order is intended, nor shall it be construed, to relieve or limit the obligations of the above-mentioned responsible party(ies) to comply with any existing or subsequent statute, regulation, permit or order. In addition, nothing set forth in this order is intended, nor shall it be construed, to authorize any violation of any statute, regulation, order or permit issued or administered by the Department
4. Civil Penalty Settlement. Within ten (10) business days of execution of this CO&A, PLPT shall pay a civil penalty of **Eight Hundred Thousand Dollars (\$800,000.00)**. This payment is in settlement of all of the Department's claims under the Tank Act for civil penalties associated with the leak from Affected Piping at the Facility for the violations set forth in Paragraphs T, U, RR, SS, HHH, III and JJJ above and the April 12, 2019 NOV, covering the period from April 1, 2016 through the date of this CO&A. This payment is not in settlement of the Department's potential claims for civil penalties under the Clean Streams Law, 36 P.S. §§ 691.1 *et seq.* (Act of 1937, P.L. 1987, No. 394) for environmental damage caused by the violations cited in this CO&A. The payment shall be made by corporate check, or the like, and made payable to the Commonwealth of Pennsylvania Storage Tank Fund and sent to the attention of:

Ron Estel, EPS  
Department of Environmental Protection  
2 E. Main Street  
Norristown, PA 19401-4915

5. Stipulated Civil Penalties.

- a. In the event PLPT fails to comply in a timely manner with any term or provisions of this CO&A (as may be extended with prior written approval by the Department), PLPT shall be in violation of this CO&A and, in addition to other applicable remedies, shall pay a civil penalty in the amount of **One Thousand Dollars (\$1,000.00)** per day for each violation identified under Corrective Action Paragraphs 3(a) through 3(e)(1), and **Two Thousand Dollars (\$2,000.00)** per day for each violation identified under Corrective Action Paragraphs 3(e)(2) through 3(f).
- b. Stipulated civil penalty payments shall be payable monthly, on or before the fifteenth day of each succeeding month and shall be forwarded as described in Paragraph 4 (Civil Penalty Settlement) above.
- c. Any payment under this paragraph shall neither waive PLPT's duty to meet its obligations under this CO&A nor preclude the Department from commencing an action to compel PLPT's compliance with the terms and conditions of this CO&A. The payment resolves only PLPT's liability for civil penalties arising from the violations of this CO&A for which the payment is made.
- d. Stipulated civil penalties shall be due automatically and without notice.

6. Additional Remedies.

- a. In the event that PLPT fails to comply with any provision of this CO&A, the Department may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of an order of the Department, including an action to enforce this CO&A.
- b. The remedies provided by this paragraph and Paragraph 5 (Stipulated Civil Penalties) are cumulative and the exercise of one does not preclude the exercise of any other. The failure of the Department to pursue any remedy shall not be deemed to be a waiver of that remedy. The payment of a stipulated civil penalty, however, shall preclude any further assessment of civil penalties for the violation for which the stipulated civil penalty is paid.

7. Reservation of Rights. The Department reserves the right to require additional measures to achieve compliance with applicable law. PLPT reserves the right to challenge any action which the Department may take to require those measures. Without limiting the forgoing, the Department specifically reserves the right to bring an enforcement action under the Clean Streams Law, 35 P.S. §§ 691.1 *et seq.* (Act of 1937, P.L. 1987, No. 394), to address environmental damage caused by the release of a regulated substance described herein, or otherwise relating to

the leak from Affected Piping or violations described herein, for which the penalty assessed shall not exceed **Two Hundred and Fifty Thousand Dollars (\$250,000.00)**. PLPT reserves the right to challenge any action which the Department may take to require those measures.

8. Liability of Operator. PLPT shall be liable for any violations of the CO&A, including those caused by, contributed to, or allowed by its officers, agents, employees, or contractors. Except as provided in Paragraph 9 (Transfer of Site), PLPT also shall be liable for any violation of this CO&A caused by, contributed to, or allowed by its successors and assigns.
9. Transfer of Site. The duties and obligations under this CO&A shall not be modified, diminished, terminated or otherwise altered by the transfer of any legal or equitable interest in the Site or any part thereof, except as provided in Paragraph 9 (Transfer of Site) of this CO&A.
  - a. If PLPT intends to transfer any legal or equitable interest in the Site which is affected by this CO&A, PLPT shall serve a copy of this CO&A upon the prospective transferee of the legal and equitable interest at least thirty (30) days prior to the contemplated transfer and shall simultaneously inform the Southeast Regional Office of the Department of such intent, as described in Paragraph 10 (Correspondence with the Department).
  - b. The Department in its sole discretion may agree to modify or terminate PLPT's duties and obligations under this CO&A upon transfer of the Site. PLPT waives any right that it may have to challenge the Department's decision in this regard.
10. Correspondence with Department. All correspondence with the Department concerning this CO&A shall be addressed to:

Ron Estel, EPS  
Department of Environmental Protection  
2 East Main Street  
Norristown, PA 19401  
restel@pa.gov  
Phone: 484-250-5710

With a copy to:

Peter Herrick, Assistant Counsel  
Department of Environmental Protection  
Office of Chief Counsel  
2 East Main Street  
Norristown, PA 19401  
pherrick@pa.gov

Phone: 484-250-5871

11. Correspondence with PLPT. All correspondence with PLPT concerning this CO&A shall be addressed to:

Jim Fedena  
Senior Vice President of Logistics, PBF Logistics Products Terminals LLC  
1 Sylvan Way, Floor 2  
Parsippany, NJ 07045-3887  
Jim.Fedena@pbfenergy.com  
Phone: (973) 455-8921

With a copy to:

Arthur G. Warden, III  
Vice President, Deputy General Counsel, PBF Holding Company LLC  
1 Sylvan Way, Floor 2  
Parsippany, NJ 07054-3887  
art.warden@pbfenergy.com  
Phone: 973-455-7553

PLPT shall notify the Department whenever there is a change in the contact person's name, title, or address. Service of any notice or any legal process for any purpose under this CO&A, including its enforcement, may be made by mailing a copy by first class mail to the address in this paragraph.

12. Force Majeure.

- a. In the event that PLPT is prevented from complying in a timely manner with any time limit imposed in this CO&A solely because of a strike, fire, flood, act of God, or other circumstance beyond PLPT's control and which PLPT, by the exercise of all reasonable diligence, is unable to prevent, then PLPT may petition the Department for an extension of time. An increase in the cost of performing the obligations set forth in this CO&A shall not constitute circumstances beyond PLPT's control. PLPT's economic inability to comply with any of the obligations of this CO&A shall not be grounds for any extension of time.
- b. PLPT shall only be entitled to the benefits of this paragraph if they notify the Department within five (5) working days by telephone and within ten (10) working days in writing of the date it becomes aware or reasonably should have become aware of the event impeding performance. The written submission shall include all necessary documentation, as well as a notarized affidavit from an authorized individual specifying the reasons for the delay, the expected duration of the delay, and the efforts which

have been made and are being made by PLPT to mitigate the effects of the event and to minimize the length of the delay. The initial written submission may be supplemented within ten (10) working days of its submission. PLPT's failure to comply with the requirements of this paragraph specifically and in a timely fashion shall render this paragraph null and of no effect as to the particular incident involved.

- c. The Department will decide whether to grant all or part of the extension requested on the basis of all documentation submitted by PLPT and other information available to the Department. In any subsequent litigation, PLPT shall have the burden of proving that the Department's refusal to grant the requested extension was an abuse of discretion based upon the information then available to it.
13. Severability. The paragraphs of this CO&A shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the parties.
14. Entire Agreement. This CO&A shall constitute the entire integrated agreement of the parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for purposes of determining the meaning or extent of any provisions herein in any litigation or any other proceeding.
15. Attorney Fees. The parties shall bear their respective attorney fees, expenses and other costs in the prosecution or defense of this matter or any related matters, arising prior to execution of this CO&A.
16. Modifications. No changes, additions, modifications, or amendments of this CO&A shall be effective unless they are set out in writing and signed by the parties hereto.
17. Titles. A title used at the beginning of any paragraph of this CO&A may be used to aid in the construction of that paragraph, but shall not be treated as controlling.
18. Decisions Under Consent Order. Any decision which the Department makes under the provisions of this CO&A is intended to be neither a final action of the Department under 25 Pa. Code §1021.2, nor an adjudication under 2 Pa. C.S. § 101 and shall not be appealable to the Environmental hearing Board or to any Court. Any objection which PLPT may have to the decision will be preserved until the Department enforces this CO&A.
19. Effective Date. This CO&A shall become effective upon execution by the parties.
20. Termination. This CO&A shall terminate 14 days after the completion of the Corrective Actions identified in Paragraph 3 and the submission of all documentation required under Paragraph 3 (Corrective Action) to the Department

and payment to the Department of all Civil Penalties under Paragraph 4 and Stipulated Penalties under Paragraph 5.

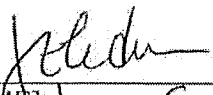
21. Execution in Counter Parts. This CO&A may be signed in counterparts, each of which shall constitute an original. The delivery by any party hereto of a telecopy, facsimile or PDF by email signature shall have the binding effect as the delivery of an original signature.

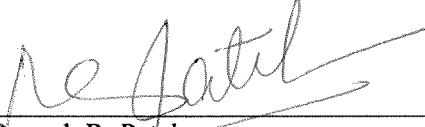


IN WITNESS WHEREOF, the parties hereto have caused this CO&A to be executed by their duly authorized representatives. The undersigned representatives of PLPT certify under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this CO&A on behalf of PLPT; that PLPT consents to the entry of this CO&A as a final ORDER of the Department; and that PLPT hereby knowingly waives its rights to appeal this CO&A and to challenge its content or validity, which rights may be available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provision of law.

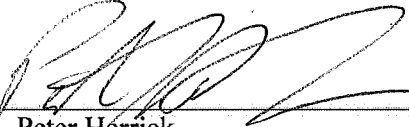
FOR PBF Logistics Products Terminals LLC: :

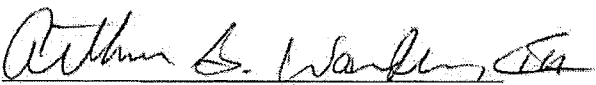
FOR THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION:

  
\_\_\_\_\_  
[NAME] James Federa Date December 9, 2021  
Senior Vice President - Logistics  
[TITLE]

  
\_\_\_\_\_  
Ragesh R. Patel Date 12/15/2021  
Regional Manager  
Environmental Cleanup and Brownfields

~~\_\_\_\_\_  
[NAME] \_\_\_\_\_ Date \_\_\_\_\_  
[TITLE]~~

  
\_\_\_\_\_  
Peter Herrick Date 12/15/21  
Assistant Counsel

  
\_\_\_\_\_  
[NAME] \_\_\_\_\_ Date 12/9/21  
Attorney for [NAME] (Optional)

ARTHUR G. WARDEN, III  
PBF LOGISTICS PRODUCTS  
TERMINALS LLC  
V.P., DEPUTY GENERAL COUNSEL