

**STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

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In the Matter of the Alleged Violations of Article 17 of the Environmental Conservation Law (ECL) and Parts 612 and 613 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR),

**RULING ON MOTION TO  
DISCONTINUE AND ORDER  
OF DISPOSITION**

DEC VISTA No.  
R6-20090827-49

- by -

December 16, 2011

**CROW PROPERTIES, L.L.C.,**

Respondent.

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Appearances of Counsel:

- Steven C. Russo, Deputy Commissioner and General Counsel (Nels G. Magnuson of counsel), for staff of the Department of Environmental Conservation
- Norman P. Deep, for respondent Crow Properties, L.L.C.

PROCEEDINGS

Respondent Crow Properties, L.L.C., owns a petroleum bulk storage ("PBS") facility located at 7712 NYS Route 5, Town of Kirkland, Oneida County, New York. Staff of the Department of Environmental Conservation ("Department") commenced this administrative enforcement proceeding by service of a notice of hearing and complaint dated February 2, 2010, alleging multiple violations of the Department's regulations governing PBS facilities.

By order dated December 27, 2010, Acting Commissioner Peter M. Iwanowicz granted Department staff's motion for order without hearing on the first cause of action alleged in the complaint, held that respondent violated 6 NYCRR 612.2(b) by failing to re-register the PBS facility within 30 days after transfer of ownership to respondent, and imposed a civil penalty in the amount of \$5,000. The Commissioner remanded the matter to the undersigned Administrative Law Judge (ALJ) for further proceedings consistent with the order.

By notice of voluntary discontinuance dated October 31, 2011, Department staff seeks to withdraw the remaining causes of action charged in the complaint. Department staff served the notice of voluntary discontinuance upon respondent also on October 31, 2011. Respondent has filed no objections to Department staff's application.

RULING AND ORDER OF DISPOSITION

Consistent with the standards for granting voluntary discontinuance under the CPLR, an order discontinuing a proceeding may be issued upon terms and conditions the ALJ deems proper (see CPLR 3217[b]; see also Matter of Village of Florida, ALJ Ruling on Motion to Discontinue, Sept. 22, 2011). Here, respondent raises no objection to Department staff's request, and no prejudice to respondent is apparent. Accordingly, Department staff's application is granted. The second through seventh causes of action charged in the February 2, 2010, complaint are dismissed.

\_\_\_\_\_/s/\_\_\_\_\_  
James T. McClymonds  
Chief Administrative Law Judge

Dated: December 16, 2011  
Albany, New York