

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of General Counsel, Region 4
1130 North Westcott Road, Schenectady, NY 12306-2014
P: (518) 357-2048 | F: (518) 357-2087
www.dec.ny.gov

CERTIFIED - RETURN RECEIPT REQUESTED
7016 0340 0000 4616 5317

February 7, 2017

Mr. Harjit Kaur
3109 Belmont Avenue
Vestal, NY 13850

Re: Order on Consent
R4-2016-1115-161
PBS #4-484385

Dear Mr. Kaur:

Enclosed please find a copy of the fully executed Order on Consent referenced above.

This will also acknowledge receipt of \$1,000 the civil penalty pursuant to Paragraph I.

Sincerely,



Dusty Renee Tinsley
Assistant Regional Attorney
Region 4

Enclosure

cc: T. Lane

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Violations of
Article 17 of New York State Environmental
Conservation Law and 6 NYCRR Part
613

**ORDER ON
CONSENT**

R4-2016-1115-161
PBS # 4-484385

Harjit Kaur
3109 Belmont Avenue
Vestal, New York 13850

Respondent.

WHEREAS:

1. The Department of Environmental Conservation ("Department") is an agency of the State charged with jurisdiction over the protection of water quality of the State pursuant to Article 17 of the ECL and the rules and regulations promulgated thereunder.
2. Respondent, Harjit Kaur, owns and/or operates a Petroleum Bulk Storage ("PBS") facility at property known as Apple Food Store located at Route 145 & Route 30, Middleburgh, New York 12122 (Schoharie County) ("Facility").
3. 6 NYCRR Part 613-1.9(c) states that "Registration must be renewed every five years from the date of the last valid registration certificate until the department receives written notice and documentation from the facility owner that the facility has been permanently closed in accordance with section 613-2.6(b), 613-3.5(b), or 613-4.5(b) of this Part, or that ownership of the facility has been transferred in accordance with subdivision (d) of this section."
4. Respondent submitted a Petroleum Bulk Storage Application which registered the Facility from August 5, 2011 through May 5, 2016 (#4-484385). The Facility registration expired on May 6, 2016. No registration renewal has been submitted to Department staff by the Respondent.
5. Respondent's failure to submit to renew the registration every five years from the date of the last valid registration certificate until the department receives written notice and documentation from the facility owner that the facility has been permanently closed in accordance with section 613-2.6(b), 613-3.5(b), or 613-4.5(b) of this Part, or that ownership of the facility has been transferred in accordance with subdivision (d) of this section is a violation of pursuant to 6 NYCRR Part 613-1.9(d) is a violation of 6 NYCRR Part 613-1.9(c).
6. ECL Section 71-1929 provides for a civil penalty of up to \$37,500 per day for a violation of any provision of Titles 1 thru 11 inclusive and title 19 of Article 17, or the rules, regulations, orders or determinations of the Commissioner promulgated thereto. Injunctive relief is also available.

7. Respondent has affirmatively waived his right to notice and hearing in the manner provided by law, and has consented to the issuing and entering of this Order and it agrees to be bound by the terms, provisions and conditions contained herein.

REMEDIES

NOW, having considered this matter and being duly advised, it is ORDERED that:

I. Penalty

With respect to the violations identified in this Order, Respondents are hereby assessed a civil penalty of ONE THOUSAND DOLLARS (\$1,000) which shall be payable to the New York State Department of Environmental Conservation by money order or certified check at the time this Order is signed, notarized and returned to the Department.

Payment of the above penalties shall not in any way alter Respondent's obligation to complete performance under the terms of this Order.

II. Force Majeure

Respondent shall not be in default of compliance with this Order if it is unable to comply with any provision of this Order solely because of an action of a national government or court, or an act of nature, war, strike, riot or catastrophe, as to any of which the negligence or willful misconduct of Respondent was not a proximate cause. Respondent shall notify the Department in writing immediately upon obtaining knowledge of any such event. Relief under this clause shall not be available if Respondent fails to timely comply with the notice requirement set out in this paragraph.

III. Communications

All communications required herein to the Department shall be made to the Department at DEC Region 4, 1130 North Westcott Road, Schenectady, NY 12306, Attn: Thomas Lane. All communications required herein to Respondent shall be made to the Respondent at 3109 Belmont Avenue, Vestal, New York 13850, Attn: Harjit Kaur. All submittals shall have the following information: owner's name, facility name and address, and the PBS Identification number.

IV. Access

Respondent shall allow duly authorized representatives of the Department access to the facility referred to in this Order without prior notice, at such times as may be desirable or necessary in order for the Department to inspect and determine the status of Respondent's compliance with this Order or the ECL and regulations promulgated thereunder.

V. Summary Abatement

This Order shall not be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

VI. Indemnification

Respondent shall indemnify and hold harmless the Department, the State of New York, and their representatives and employees for all claims, suits, actions, and/or damages, and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of the provisions hereof by Respondent, its directors, officers, employees, servants, agents, successors or assigns.

VII. Binding Effect

The provisions of this Order shall inure to the benefit of and be binding upon the Department and Respondent and its successors (including successors in title) and assigns.

VIII. Modification

No change in this Order shall be made or become effective except as set forth by a written order of the Commissioner or the Commissioner's designee.

IX. Entire Order

The provisions of this Order constitute the complete and entire Order issued to the Respondent concerning resolution of the violations identified herein. No term, condition, understanding or agreement purporting to modify or vary any term hereof shall be binding unless made in writing and subscribed by the party to be bound, pursuant to Paragraph X of this Order. No informal oral or written advice, guidance, suggestion or comment by the Department regarding any report, proposal, plan, specification, schedule, comment or statement made or submitted by Respondent shall be construed as relieving Respondent of its obligations to obtain such formal approvals as may be required by this Order.

X. Effective Date

The effective date of this Order shall be the date it is signed by the Regional Director.

XI. Reservation of Rights

Except as specifically provided in this Order, nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting:

A. Any legal or equitable rights or claims, actions, proceedings, suits, causes of action or demands whatsoever that the State may have against Respondent for any other violations of the ECL, rules or regulations promulgated thereunder.

B. Any legal or equitable rights or claims, actions, proceedings, suits, causes of action or demands whatsoever that the State may have against anyone other than Respondent, its officers, directors, agents, servants, employees, successors and assigns;

C. Whatever right the Department has to bring any action or proceeding against Respondent and/or any of Respondent's directors, officers, employees, servants, agents, successors, and assigns with respect to claims for natural resource damages; and

D. Respondent's right to assert all available defenses to any claims, actions, proceedings, suits, causes of actions or demands made or commenced by the State or the Department provided, however, that Respondent waives all legal or equitable rights claims, actions, proceedings, appeals, suits, causes of action, defenses or demands whatsoever that it may have to a judicial review of the validity and binding effect of this Order and whether or not this Order has been entered into voluntarily by Respondent.

XII. Full Settlement

Compliance with the terms and conditions of this Order shall be in full civil settlement of the violations of this Order.

DATED: Rotterdam, New York
February 7, 2017

Basil Seggos
Commissioner
New York State Department of
Environmental Conservation

BY:



Keith Goertz
Regional Director
Region 4

CONSENT BY RESPONDENT

Respondent Harjit Kaur's agent hereby consents to the issuing and entering of this Order, waives his rights to notice and hearing herein and agrees to be bound by the provisions, terms and conditions contained herein.

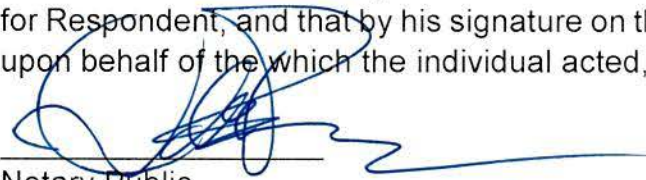
BY:  (Name - Signature)

BALRAJ SINGH (Name - Print)

TITLE: _____

DATE: _____

On the 30th day of January in the year 2017 before me, the undersigned, a Notary Public in and for the State, personally appeared Balraj Singh, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, as agent for Respondent, and that by his signature on the instrument, the individual, or the person upon behalf of the which the individual acted, executed the instrument.


Notary Public

Qualified in the County of: Schoharie
My commission expires:

DANIEL S. ROSS
Notary Public, State of New York
No. 4711075
Qualified in Schoharie County
Commission Expires 2/26/19