

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

7013 1090 0002 3365 3694

June 15, 2015

Michael H. Matri
Hess Retail Stores LLC
One Hess Plaza
Woodbridge, NJ 07095

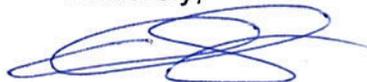
Re: Order of Consent
R4-2015-0206-10
PBS# 4-163740

Dear Mr. Matri:

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

This will also acknowledge receipt of \$1.200 the civil penalty pursuant to Paragraph I.

Sincerely,



Karen Lavery
Assistant Regional Attorney
Region 4

Enclosure

ec: D. Pickett



Department of
Environmental
Conservation

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Violations of
Article 17 of New York State Environmental
Conservation Law

-by-

ORDER ON CONSENT
R4-2015-0206-10
PBS # 4-163740

Hess Retail Stores LLC
One Hess Plaza
Woodbridge, NJ 07095

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 Titles 3 and 10 of Article 17 of the ECL and the rules and regulations promulgated thereto.
2. Respondent, Hess Retail Stores LLC, owns and/or operates a Petroleum Bulk Storage ("PBS") facility (4- 163740) known as Hess #32422, located at 6 Green Street, Hudson, NY 12534 (Columbia County) ("facility").
3. On May 9, 2014, Department staff inspected the facility and observed the following violations:

6 NYCRR 613.3 (b) (4)	Monitoring wells not properly labeled and /or secured
6 NYCRR 613.3(d) and 6 NYCRR 613.3(c).	The tank top sump was not tight and leaked and was not kept in good working order and is part of the secondary containment system.

4. On February 21, 2015, Respondent returned to compliance with respect to the violations cited in paragraph No. 3 above.

5 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.

6. Respondent has affirmatively waived its 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.

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

I. Penalty

With respect to the violations identified in this Order, Respondent is hereby assessed a civil penalty of ONE THOUSAND TWO HUNDRED DOLLARS (\$1,200) 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. Communications

All communications required herein shall be made to: Department -- DEC Region 4, 1130 North Westcott Road, Schenectady, NY 12306, Attn: Regional Spill Engineer. All submittals shall have the following information: owner's name, facility name and address, and the PBS Identification number.

III. Access

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

IV. 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.

V. Indemnification

Respondent shall indemnify and hold DEC, New York State, and their representatives and employees harmless for all claims, suits, 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.

VI. 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.

VII. 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.

VIII. Entire Order

The provisions of this Order constitute the complete and entire Order issued to the Respondent concerning resolution of the violations identified herein.

IX. Effective Date

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

X. 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.

DATED: *June 12*, 2015
Rotterdam, NY

Joseph Martens
Commissioner
New York State Department of
Environmental Conservation

BY:



Keith Goertz
Regional Director
Region 4