New York State Department of Environmental Conservation

Spill Prevention and Response Program, Region 2, 47-40 21st Street, Long Island City, NY 11101
Phone: (718) 482-6454, Fax: (718) 482-4098, E-mail r2pbs@gw.dec.state.ny.us, website: www.dec.ny.gov

CURTIS (718) 482-4900

NOTICE OF VIOLATION

Alexander B. Grannis
Commissioner

PBS Facility Number: 2-452335 Date: 02 / 23 / 09

Facility Name: BLACK BEAR COMPANY	Property/Tank Owner Name:
Phone number: (718) 926 2465	Street:
Doing Business As:	City: State: Zip: Phone:
Street: 27-10 HUNTER POINT BLVD	Operator Name:
City: LIC State: NY Zip: 11101 County: QUEENS	Street: City: State: Zip: Phone:

Facility and General Tank Violations of 6 NYCRR (check as appropriate)

	01. Failure to Register Facility [612.2(a)(1)&c]		02. Failure to Renew Registration [612.2(a)(2)]
	03. Failure to Transfer Ownership [612.2(b)]		04. Registration Not Current/Valid [612.2(e)]
	05. Unregistered Tanks [612.2(e)]		06. DEC Not Notified of Substantial Modification [612.2(d)]
	07. Tank Not Properly Closed [613.9(b)]		08. Failure to Report a Spill [613.8]
	09. Failure to Color Code Fill Ports [613.3(b)(1)]		10. Sump/Fill Catch Basin Not Maintained [613.3(d)]

Underground Tank Violations of 6 NYCRR (mark with tank numbers)

	11. Failure to Test Tank/Piping [613.5(a)(1)(i)]		12. Failure to Keep Inventory Records [613.4(a)(1)]
	13. Failure to Reconcile Inventory Records [613.4(d)]		14. Failure to Investigate Inventory Discrepancy [613.4(d)]
	15. No Leak Monitoring on New Tank [614.2(a)(3)]		16. Failure to Monitor for Leaks at Least Once per Week [613.5(b)(3)]
	17. Failure to Monitor Operability of Leak Detection [613.5(b)(3)]		18. Failure to Maintain Leak Monitoring for Piping [614.14(g)(3)]
	19. Failure to Annually Test Cathodic Protection [613.5(b)(2)]		20. Failure to Maintain Spill/Overfill Prevention Equipment [613.3(d)]
	21. Failure to Install/Properly Install Impact Valve [613.3(c)(1)]		22. Tank Label Not Installed at Fill Port [614.3(a)(2)]
X	23. Failure to Monitor Unmetered Tank for Leaks [613.4(a)(2)]		24. Failure to Maintain As-Built Plan [614.7(d)]

Aboveground Tank Violations of 6 NYCRR (mark with tank numbers)

	25. Tank and/or Gauge Not Properly Labeled [613.3(c)(3)(ii)]		26. No Secondary Containment [613.3(c)(6)(i)]
	27. No Gauge or High Level Device [613.3(c)(3)]		28. Failure to Inspect Monthly or Maintain Inspection Records [613.6]

Air Violations of 6 NYCRR Part 230.2 (mark with tank numbers)

	29. Stage I/II Not Installed; No Annual Test; No Vapor Tight Seal at Tank Port/Poppet; Tear in Hoses, Boots and Faceplates; Coax Tube Drop Grater than 1"

Spill Violations (check as appropriate)

	30. Failure to Notify of Petroleum Discharge [NL175]		31. Failure to Control Petroleum Transfer [613.3(a)]
	32. Failure to Contain and/or Remove Petroleum Discharge [NL176]		33. Illegal Discharge of Petroleum [NL173]
	34. Illegal Discharge of Organic or Inorganic Matter [ECL17-0501]		

Tank #	Regulation	Description of Additional Violations

PLEASE TAKE NOTICE THAT based upon this inspection, you are in violation of Article 17 and/or Article 19 of the New York State Environmental Conservation Law and/or Article 12 of the Navigation Law, and/or the regulations promulgated thereunder. PLEASE TAKE FURTHER NOTICE THAT for the violations cited herein, ECL § 71-1929 provides for civil penalties of up to $37,500 per day for each violation of Article 17; ECL § 71-2103 provides for civil penalties of up to $15,000 per day for each violation of Article 19; and NL § 192 provides for civil penalties of up to $25,000 per day for each violation of NL Article 12. DEC reserves the right to take further civil, criminal and/or administrative enforcement action for any violation noticed herein or any other violation of the Environmental Conservation Law, Navigation Law, or the regulations promulgated thereunder.

Inspector's Name MOSES ASHKENAZI Title IE Signature [signature] Date 02 / 23 / 09

Technical or scheduling questions should be directed to the inspector above at (718) 482-6454 or e-mail r2pbs@gw.dec.state.ny.us

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I, Jennifer Truba have been told of the violations cited above and the need to remedy these violations immediately. I have also been told that an administrative settlement conference has been set for 03 / 24 / 09 at 3:00 PM in the Region 2 office located at **47-40 21st Street, Long Island City, NY**. I understand that if I do not attend the settlement conference, Department legal staff may institute a formal civil or administrative enforcement proceeding. I also confirm that I have been notified that I will be meeting with an attorney from the Department to discuss settlement and that I may bring my own attorney to the settlement conference.

Owner/Operator/Representative Signature: Jennifer Truba Title Opr. Mgr Date: 2/23/09

SEE INSTRUCTIONS ON BACK

7182723147

New York State Department of Environmental Conservation

Spill Prevention and Response Program, Region 2, 47-40 21st Street, Long Island City, NY 11101
Phone: (718) 482-6454, Fax: (718) 482-4098, E-mail r2pbs@gw.dec.state.ny.us, website: www.dec.ny.gov

Alexander B. Grannis
Commissioner

NOTICE OF VIOLATION

PBS Facility Number: 2-452535 Date: 02/23/09

Facility Name: BLACK BEAR COMPANY	Property/Tank Owner Name
Phone number: (718) 326 2465	Street:
Doing Business As:	City: State: Zip: Phone:
Street: 27-10 HUNTER POINT BLVD	Operator Name
City: LIC State: NY Zip: 11101 County: QUEENS	Street:
	City: State: Zip: Phone:

Facility and General Tank Violations of 6 NYCRR (check as appropriate)

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	07. Tank Not Properly Closed [613.9(b)]		08. Failure to Report a Spill [613.8]
	09. Failure to Color Code Fill Ports [613.3(b)(1)]		10. Sump/Fill Catch Basin Not Maintained [613.3(d)]

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	13. Failure to Reconcile Inventory Records [613.4(d)]		14. Failure to Investigate Inventory Discrepancy [613.4(d)]
	15. No Leak Monitoring on New Tank [614.2(a)(3)]		16. Failure to Monitor for Leaks at Least Once per Week [613.5(b)(3)]
	17. Failure to Monitor Operability of Leak Detection [613.5(b)(3)]		18. Failure to Maintain Leak Monitoring for Piping [614.14(g)(3)]
	19. Failure to Annually Test Cathodic Protection [613.5(b)(2)]		20. Failure to Maintain Spill/Overfill Prevention Equipment [613.3(d)]
	21. Failure to Install/Properly Install Impact Valve [613.3(c)(1)]		22. Tank Label Not Installed at Fill Port [614.3(a)(2)]
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Aboveground Tank Violations of 6 NYCRR (mark with tank numbers)

	25. Tank and/or Gauge Not Properly Labeled [613.3(c)(3)(ii)]		26. No Secondary Containment [613.3(c)(6)(i)]
	27. No Gauge or High Level Device [613.3(c)(3)]		28. Failure to Inspect Monthly or Maintain Inspection Records [613.6]

Air Violations of 6 NYCRR Part 230.2 (mark with tank numbers)

	29. Stage I/II Not Installed; No Annual Test; No Vapor Tight Seal at Tank Port/Poppet; Tear in Hoses, Boots and Faceplates; Coax Tube Drop Grater than 1"

Spill Violations (check as appropriate)

	30. Failure to Notify of Petroleum Discharge [NL175]		31. Failure to Control Petroleum Transfer [613.3(a)]
	32. Failure to Contain and/or Remove Petroleum Discharge [NL176]		33. Illegal Discharge of Petroleum [NL173]
	34. Illegal Discharge of Organic or Inorganic Matter [ECL17-0501]		

Tank #	Regulation	Description of Additional Violations

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Inspector's Name MARK ARNOLD Title ES Signature _____ Date 02/23/09

Technical or scheduling questions should be directed to the inspector above at (718) 482-6454 or e-mail r2pbs@gw.dec.state.ny.us

==========

I, Jennifer Trubia have been told of the violations cited above and the need to remedy these violations immediately. I have also been told that an administrative settlement conference has been set for 03/24/09 at 3:00 PM in the Region 2 office located at **47-40 21st Street, Long Island City, NY.** I understand that if I do not attend the settlement conference, Department legal staff may institute a formal civil or administrative enforcement proceeding. I also confirm that I have been notified that I will be meeting with an attorney from the Department to discuss settlement and that I may bring my own attorney to the settlement conference.

Owner/Operator/Representative Signature: Jennifer Trubia Title Opr Mgr Date: 2/23/09

SEE INSTRUCTIONS ON BACK

NOV-R2 (01/08) **DISTRIBUTION:** White copy - Facility Representative Yellow copy - DEC Technical Pink copy - DEC Legal

Instructions.

In order to demonstrate that the facility is in compliance, you should bring to the settlement conference proof that the violations cited on the front page of this Notice of Violation have been corrected or are being corrected. Such proof may include (but not limited to) the following, for particular violations:

- **Violations No. 01-06.** Photos of a posted valid and current PBS registration certificate, a copy of a completed PBS application and check (when applicable) submitted to the Department.
- **Violation No. 07**. A copy of a completed PBS application for substantial tank modification submitted to the Department (when necessary), documentation showing that the tank was properly permanently closed or a written agreement with a contractor with a schedule of tank closure.
- **Violation No. 08**. Immediately notify the NYS Spill Hotline of a spill at (800) 457-7362 and bring the spill case number assigned by Hotline, photos and/or documentation (letters, invoices, etc.) showing that the spill was cleaned up. If cleanup is not completed, proposal letters or contracts from consultant/contractor regarding current status of spill investigation/remediation. Also, all correspondence with the DEC spill case manager pertaining to the spill event.
- **Violation No. 09**. Photos of color-coded fill port(s).
- **Violation No. 10**. Documentation (letter, invoices, etc.) showing that the sump/fill catch bucket was cleaned repaired or replaced.
- **Violation No. 11**. Latest tightness test repot including test calculations and results conducted within the last 5 years. Documentation showing the scheduled day of the tightness test or permanent tank closure.
- **Violations No. 12 and 13**. Properly reconciled inventory records for the last three (3) ten-day periods.
- **Violation No. 14**. A letter/report with investigation results accounting for the discrepancy.
- **Violation No. 15**. Documentation (letters, contracts, proposals, invoices, etc.) showing that leak monitoring has been repaired/installed or is scheduled for repair/installation.
- **Violation No. 16**. Printed records of weekly leak detection.
- **Violation No. 17**. Printed monthly records showing the leak detection system working properly.
- **Violation No. 18**. Photos and documentation (letters, contracts, proposals, invoices, etc.) showing that the pipe leak detector was repaired/installed or is scheduled for repair/installation.
- **Violation No. 19**. An annual cathodic protection (CP) monitoring report completed within last 12 months or documentation showing a scheduled date for CP testing.
- **Violation No. 20**. Documentation (letters, contracts, proposals, invoices, etc.) showing that overfill prevention has been repaired/installed or is scheduled for repair/installation.
- **Violation No. 21**. Photos and documentation (letters, contracts, proposals, invoices, etc.) showing that shear (impact) valve(s) has been properly installed or is scheduled for repair/installation.
- **Violation No. 22**. Photos of tank label(s) affixed at the fill port or documentation showing that the label(s) was ordered.
- **Violation No. 23**. Latest (completed within last 12 months) tightness test report including test calculations and results, a standpipe test report or other test acceptable to the Department, or a schedule for such test or permanent tank closure.
- **Violation No. 24**. Copy of as-built plan or drawing with appropriate installer's 614 statement or documentation (letters, contracts, proposals, etc.) showing that drawings were ordered from the appropriate architectural or engineering firm.
- **Violation No. 25**. Photos of properly labeled tank and/or gauge.
- **Violation No. 26**. Photos and documentation (letters, contracts, proposals, invoices, etc.) showing that secondary containment was installed or scheduled to be installed, or that the tank is scheduled to be closed permanently.
- **Violation No. 27**. Photos and documentation (letters, contracts, proposals, invoices, etc.) showing that the gauge/high level device was installed or is scheduled to be installed.
- **Violation No. 28**. Monthly inspection report completed within last 30 days.
- **Violation No. 29**. Photos and documentation (letters, contracts, proposals, invoices, etc.) showing that the Stage I and/or Stage II vapor recovery system was repaired/installed, scheduled to be repaired/installed or tank is scheduled for permanent closure.
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BLACK BEAR COMPANY, INC.

MANUFACTURERS · MARKETERS OF QUALITY LUBRICANTS

27-10 HUNTERS POINT AVE. (49thAVE)
LONG ISLAND CITY
NEW YORK 11101-4498

MEMBER OF SOCIETY OF TRIBOLOGISTS & LUBRICATION ENGINEERS
MEMBER OF NATIONAL LUBRICATING GREASE INSTITUTE

(718) 784-7330
(800) 660-7330
FAX (718) 392-828

FAX COVER SHEET

DATE: ~~3/12/05~~ 3/16/05

TO: Bernie

FROM: Jennifer

# of pages; 23 including cover

COMMENTS: Please advise

718-228-4238

New York State Department of Environmental Conservation

Spill Prevention and Response Program, Region 2, 47-40 21st Street, Long Island City, NY 11101
Phone: (718) 482-6454, Fax: (718) 482-4098, E-mail r2pbs@gw.dec.state.ny.us, website: www.dec.ny.gov

Alexander B. Grannis
Commissioner

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Inspector's Name MOSES ASAKA Title ES Signature [signature] Date 02/23/09

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Owner/Operator/Representative Signature: Jennifer Trubia Title Oprmgr Date: 2/23/09

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718-591-469 **Instructions.**

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New York State Department of Environmental Conservation
Office of General Counsel, Region 2
47-40 21ST Street, Long Island City, NY 11101-5407
Phone: (718) 482-4965 • FAX: (718) 482-4962
Website: www.dec.ny.gov

Alexander B. Grannis
Commissioner

Meeting Roster

SUBJECT: Black Bear Co Inc
DEC FILE NO.: R2-20090319-167
DATE: 3/24/09

NAME	REPRESENTING	PHONE	FAX	EMAIL
Lou Oliva	DEC-Legal	718-482-4961	-4962	loliva@verizon.net
Derek Chou	BLACK BEAR	718-784-7330	718-392-8283	VWDC@MSN.COM
MOSES ASOKU	NYSDEC	718 482 4608		mxasoku@gw.dec.state.ny.us

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
----------X

In the Matter of the Violations of Article 17 of the New York State Environmental Conservation Law, Article 12 of the New York State Navigation Law, and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York,

ORDER ON CONSENT

NYSDEC File No. R2-20090319-167

- by -

Black Bear Company, Inc.

Respondent.
----------X

WHEREAS:

1. The New York State Department of Environmental Conservation ("NYSDEC" or the "Department") has administrative jurisdiction over the abatement and prevention of pollution of the waters and air of the state, and is responsible for the enforcement of the Environmental Conservation Law of the State of New York ("ECL"), and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("NYCRR");

2. It is the responsibility of the Department to conserve, improve and protect New York State's natural resources and environment, and control pollution in order to enhance the health, safety and welfare of the people of the state and their overall economic and social well-being; and

3. The Respondent, Black Bear Company, Inc., owns and operates a petroleum bulk storage facility located at 27-10 Hunters Point Boulevard, Queens, New York 11101, identified in Department records as PBS #2-452335 (the "Facility").

VIOLATIONS

4. Department staff inspected the Facility on February 23, 2009 and found the following violations:

   a. Respondent violated 6 NYCRR § 613.4(a)(2) by failing to monitor an unmetered tank for leaks - $500 penalty

5. ECL § 71-1929 provides for penalties of up to THIRTY SEVEN THOUSAND FIVE HUNDRED dollars ($37,500) per day for each violation of the ECL Part 17 and 6 NYCRR Parts 612, 613 and 614 set forth above.

6. ECL § 71-2103 provides for penalties of up to FIFTEEN THOUSAND dollars ($15,000) per day for each violation of 6 NYCRR Part 230 set forth above.

7. Navigation Law § 192 provides for penalties of up to TWENTY FIVE THOUSAND dollars ($25,000) per day for violation of the Navigation Law as set forth above.

8. This Order is made strictly for the purposes of the Department and is not intended for the benefit of, or use by, any third party.

9. In settlement of the Respondent's civil liability for the aforesaid violations, the Respondent admits the violations set forth herein, waives its right to a hearing herein as provided by law and consents to the issuing and entering of this Order on Consent pursuant to the provisions of Articles 17 and 71 of the ECL, and agrees to be bound by the provisions, terms and conditions herein.

NOW, being duly advised and having considered this matter, the Commissioner of the Department of Environmental Conservation hereby ORDERS that:

I. COMPLIANCE SCHEDULE

Within 60 days of the effective date of this Order, the Respondent shall close the tank. Respondent must then submit a tank closure application to Mr. Moses Ajoku, Petroleum Bulk Storage Unit, New York State Department of Environmental Conservation, 47-40 21st Street, Long Island City, New York, 11101-5407; mxajoku@gw.dec.state.ny.us (e-mail); 718-482-4098 (fax). All correspondence must carry the Facility identification number set forth in paragraph 3 above.

II. PENALTY

A. The Respondent is hereby assessed a civil penalty in the amount of Five Hundred ($500.00) Dollars for the violations stated herein. Payment shall be made by check or money order payable to the "Environmental Protection and Spill Compensation Fund" and delivered with the Respondent's signed original of this Order to: Louis P. Oliva, Regional Attorney, New York State Department of Environmental Conservation, 47-40 21st Street, Long Island City, New York, 11101-5407.

B. Payment of the civil penalty shall not in any way alter the Respondent's obligation to complete performance under the terms of this Order. In the event that the Respondent fails to fully comply with the requirements of this Order in a timely fashion, the Respondent shall be subject to penalties of up to $37,500 per day per violation pursuant to ECL § 71-1929, and penalties of up to $15,000 per day pursuant to ECL § 71-2103, without prejudicing the Department from seeking further appropriate penalties for violations of this Order.

III. MISCELLANEOUS

A. Compliance with all terms of this Order shall satisfy the Respondent's outstanding civil liability for the violations described above. The provisions, terms and conditions of this Order shall be deemed to bind the Respondent and the Respondent's heirs, legal representatives, receivers, trustees in bankruptcy, successors and assigns.

B. This Order shall constitute the entire agreement of the Department and the Respondent with respect to settlement of the violations specifically referenced herein.

C. If the Respondent cannot comply with a deadline or requirement of this Order, because of war, strike, riot, catastrophe, or other condition which was not caused by the negligence or willful misconduct of the Respondent and which could not have been avoided by the Respondent through the exercise of due care, the Respondent shall apply in writing to the Department within a reasonable time after obtaining knowledge of such fact and request an extension or modification of the deadline or requirement.

D. No change in this Order shall be made or become effective except as specifically set forth by written order of the Commissioner, being made either upon written application of the Respondent, or upon the Commissioner's own findings after notice and opportunity to be heard have been given to the Respondent. The Respondent shall have the burden of proving entitlement to any modification requested.

E. The Respondent shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages and costs resulting from the acts and/or omissions of the Respondent, intentional, negligent, or otherwise, of every nature and description, arising out of or resulting from the compliance or attempted compliance with the provisions of this Order by the Respondent or its employees, servants, agents, successors or assigns.

F. This Order shall take effect when it is signed by the Commissioner of the Department of Environmental Conservation or his designee.

DATED: Long Island City, New York
March 31, 2009

ALEXANDER B. GRANNIS
Commissioner
New York State Department of
Environmental Conservation

By: _____
SUZANNE Y. MATTEI
Regional Director
NYSDEC - Region 2

CONSENT BY RESPONDENT

Respondent, **Black Bear Company, Inc.**, hereby consents to the issuing and entering of this Order without further notice, waives its right to a hearing herein, and agrees to be bound by the terms, conditions and provisions contained in this Order.

Black Bear Company, Inc.

By [signature]: Jennifer Trubia

Print name: Jennifer Trub.A

Title: Operations Manager

Date: 3/25/09

ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss:
COUNTY OF Queens)

On this 25 day of MARCH, 2009, before me personally came JENNIFER TRUBIA, to me known, who being by me duly sworn did depose and say that s/he resides in 66-12 55th Rd Maspeth that s/he is manager of **Black Bear Company, Inc.** and that s/he signed this instrument as authorized by said **Black Bear Company, Inc.**

Daniel T Schleicher

Notary Public

DANIEL T. SCHLEICHER
NOTARY PUBLIC, State of New York
No. 41-4814400
Qualified in Queens County
Commission Expires Jan. 31, 2012

New York State Department of Environmental Conservation
Office of General Counsel, Region 2
47-40 21ST Street, Long Island City, NY 11101-5407
Phone: (718) 482-4965 • **FAX:** (718) 482-4962
Website: www.dec.state.ny.us

Alexander B. Grannis
Commissioner

April 6, 2009

Jennifer Trubia
Operations Manager
Black Bear Company, Inc.
27-10 Hunters Point Boulevard
Long Island City, NY 11101

Re: Black Bear Company, Inc. DEC File No. R2-20090319-167

Dear Ms. Trubia:

This letter acknowledges the receipt of a check in the amount of $500 as complete payment of the civil penalty (receipt enclosed). Also enclosed is a copy of the fully executed Order on Consent for the above referenced matter. Please retain this for your records.

If you have any questions please contact me at (718) 482-4965.

Very truly ypurs,

Louis P. Oliva

Louis P. Oliva
Regional Attorney

Encl.
LPO:sw