

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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

ORDER

- by -

DEC Case No.
R2-20160729-263

OLINVILLE REALTY LLC,

Respondent.

This administrative enforcement proceeding concerns alleged violations of ECL article 17 and 6 NYCRR part 613 at a petroleum bulk storage (PBS) facility owned by respondent Olinville Realty LLC (respondent) and located at 2280 Olinville Avenue, Bronx, New York (site), a residential apartment building. Located at the facility is underground PBS tank No. 001 with a capacity of 6,000 gallons. The facility is designated as PBS No. 2-603654.

Staff of the New York State Department of Environmental Conservation (Department) commenced this proceeding by service of a notice of hearing and complaint, dated February 13, 2017, which respondent received on February 17, 2017. Respondent did not answer staff's complaint. In its complaint, Department staff alleges that respondent Olinville Realty LLC:

1. Failed to accurately register a PBS facility in violation of 6 NYCRR 613-1.9(a) (eight counts);
2. Failed to maintain an as-built diagram in violation of 6 NYCRR 613-3.1(b)(4)(ii);
3. Failed to install a label at the fill port in violation of 6 NYCRR 613-3.2(a)(3);
4. Failed to color-code a facility at or near the fill port in violation of 6 NYCRR 613-3.2(a)(4);
5. Failed to maintain spill prevention equipment in violation of 6 NYCRR 613-3.2(a)(6) and
6. Failed to conduct leak detection on a category two underground storage tank in violation of 6 NYCRR 613-3.3(a)(1).

Based on these alleged violations, Department staff requests that I: (a) hold respondent in violation of the ECL¹ and, as set forth above, specific sections of 6 NYCRR part 613; (b) assess a civil penalty of ten thousand five hundred dollars (\$10,500); and (c) direct respondent to undertake and complete corrective actions, and submit documentation of their completion, within thirty (30) days.

Following respondent's failure to answer the complaint, Department staff served a motion for order without hearing and supporting papers on respondent, which were received by respondent on April 3, 2017. Staff's motion requests a finding of liability for the violations alleged in the complaint and the relief requested therein. Respondent did not file or serve a response to staff's motion papers. Accordingly, Department staff's motion is an unopposed motion for order without hearing (see 6 NYCRR 622.12).

The matter was assigned to Administrative Law Judge (ALJ) Michael S. Caruso, who prepared the attached summary report. I adopt the ALJ's summary report as my decision in this matter, subject to my comments below.

I concur with the ALJ's recommendation to grant staff's motion. Staff has made a prima facie showing that respondent has committed the violations alleged (see ALJ Summary Report, at 5-6 [addressing each of staff's six causes of action]).

ECL 71-1929(1) provides, in part, that a person who violates any of the provisions of title 10 of ECL article 17 or the rules or regulations promulgated pursuant thereto (which includes the Part 613 regulations at issue here) shall be liable for a civil penalty not to exceed thirty-seven thousand five hundred dollars (\$37,500) per day for each violation. Department staff requested a civil penalty of ten thousand five hundred dollars (\$10,500) and the ALJ concluded that a civil penalty of ten thousand five hundred dollars (\$10,500) is supported and appropriate (see ALJ Summary Report at 6-7). I concur, and hereby impose a civil penalty against respondent Olinville Realty LLC in the amount of ten thousand five hundred dollars (\$10,500), which penalty respondent is directed to submit to the Department within thirty (30) days of the receipt of this order.

Department staff also requests, as part of the relief in this matter, that respondent be directed to submit photographic or documentary evidence that demonstrates that respondent has completed appropriate corrective action. The corrective actions that Department staff requests are authorized and appropriate. I hereby direct that within thirty (30) days of the service of this order upon respondent, respondent shall:

- Prepare and submit to the Department an accurate registration of the PBS facility located at 2280 Olinville Avenue, Bronx, New York;
- Maintain an as-built diagram of the facility tank system;

¹ Department staff did not, however, cite any specific sections of the ECL in its papers.

- Install a label at the fill port that includes the tank registration identification number, tank design and working capacities, and the type of petroleum stored in the tank system;
- Color code the facility at or near the fill port in accordance with API RP 1637;
- Maintain spill prevention equipment and remove all accumulated petroleum product from the fill port catch basin; and
- Conduct leak detection on the tank.

Respondent shall, within thirty (30) days of service of this order on respondent, submit photographs, documentation or reports acceptable to Department staff demonstrating that the corrective actions have been completed. To the extent that respondent has any questions regarding the regulatory requirements that apply to the above-referenced corrective actions, I encourage respondent to contact Department staff in this regard.

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

- I. Department staff's motion for order without hearing, pursuant to 6 NYCRR 622.12, is granted.
- II. Based on record evidence, respondent Olinville Realty LLC is adjudged to have violated the following:
 - A. 6 NYCRR 613-1.9(a), by failing to accurately register a PBS facility (eight counts) located at 2280 Olinville Avenue, Bronx, New York;
 - B. 6 NYCRR 613-3.1(b)(4)(ii), by failing to maintain an as-built diagram;
 - C. 6 NYCRR 613-3.2(a)(3), by failing to install a label at the fill port;
 - D. 6 NYCRR 613-3.2(a)(4), by failing to color-code the facility at or near the fill port;
 - E. 6 NYCRR 613-3.2(a)(6), by failing to maintain spill prevention equipment; and
 - F. 6 NYCRR 613-3.3(a)(1), by failing to conduct leak detection on the PBS storage tank.
- III. Respondent Olinville Realty LLC is assessed a civil penalty of ten thousand five hundred dollars (\$10,500) for the violations referenced in paragraph "II" of this order.

Within thirty (30) days of service of this order on respondent, Olinville Realty LLC shall pay the civil penalty by certified check, cashier's check or money order made payable to the New York State Department of Environmental Conservation.

- IV. Within thirty (30) days of service of this order on respondent Olinville Realty LLC, respondent shall:
- A. Prepare and submit to the Department an accurate registration of the PBS facility located at 2280 Olinville Avenue, Bronx, New York;
 - B. Maintain an as-built diagram of the facility tank system;
 - C. Install a label at the fill port that includes the tank registration identification number, tank design and working capacities, and the type of petroleum stored in the tank system;
 - D. Color code the facility at or near the fill port in accordance with API RP 1637;
 - E. Maintain spill prevention equipment and remove all accumulated petroleum product from the fill port catch basin; and
 - F. Conduct leak detection on the tank.
- V. Within thirty (30) days of service of this order on respondent Olinville Realty LLC, respondent shall submit photographs, documentation or reports acceptable to the Department demonstrating that the corrective actions referenced in paragraph "IV" have been completed.
- VI. Respondent Olinville Realty LLC shall submit the civil penalty and all other submissions to the following:

John K. Urda, Esq.
Assistant Regional Attorney
NYSDEC Region 2
One Hunter's Point Plaza
47-40 21st Street
Long Island City, New York 11101-5407

- VII. The provisions, terms and conditions of this Order shall bind respondent Olinville Realty LLC and its agents, successors and assigns, in any and all capacities.

For the New York State Department
of Environmental Conservation

By: _____/s/_____
Basil Seggos
Commissioner

Dated: Albany, New York
July 21, 2017

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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

SUMMARY REPORT

DEC Case No.
R2-20160729-263

- by -

OLINVILLE REALTY LLC,

Respondent.

Proceedings

By notice of hearing and complaint dated February 13, 2017, staff of the New York State Department of Environmental Conservation (Department) commenced this enforcement proceeding against respondent Olinville Realty LLC (respondent) for alleged violations of ECL article 17 and 6 NYCRR part 613 at respondent's petroleum bulk storage (PBS) facility located at 2280 Olinville Avenue, Bronx, New York (the site). Staff served the notice of hearing and complaint on respondent by certified mail on February 13, 2017, which respondent received on February 17, 2017. Respondent did not answer the complaint.

Department staff alleges respondent violated the following:

1. 6 NYCRR 613-1.9(a) for failing to accurately register a PBS facility (eight counts);
2. 6 NYCRR 613-3.1(b)(4)(ii) for failing to maintain an as-built diagram;
3. 6 NYCRR 613-3.2(a)(3) for failing to install a label at the fill port;
4. 6 NYCRR 613-3.2(a)(4) for failing to color-code a facility at or near the fill port;
5. 6 NYCRR 613-3.2(a)(6) for failing to maintain spill prevention equipment;
6. 6 NYCRR 613-3.3(a)(1) for failing to conduct leak detection on a category two underground storage tank.

On March 27, 2017, Department Staff served a motion for an order without a hearing together with the affirmation of John K. Urda with exhibits, and the affidavit of Leonel Batista with exhibits, all dated March 27, 2017 (see Appendix A attached hereto), on respondent by certified mail. Respondent received the motion for an order without a hearing on April 3, 2017. Respondent has not responded to staff's motion.

Staff's motion requests that the Commissioner issue an order: (i) finding that respondent violated the law and regulations as set forth in the complaint; (ii) imposing a civil penalty of \$10,500 on respondent; (iii) directing respondent to complete corrective action and submit photographic or documentary evidence of the completion within thirty days; and (iv) granting such other and further relief as may be deemed just, proper and equitable under the circumstances.

FINDINGS OF FACT

1. Respondent Olinville Realty LLC (respondent) is the owner of a petroleum bulk storage facility having a capacity of over 1,100 gallons located at 2280 Olinville Avenue, Bronx, New York (the facility). In particular, petroleum storage tank No. 001 at the facility has a capacity of 6,000 gallons and was installed in 1996. See Urda Affirmation ¶¶ 3 and 4; Complaint ¶ 4, Exhibits B and C.
2. Respondent Olinville Realty LLC is an active domestic limited liability company. See Urda Affirmation ¶ 3; Complaint Exhibit A.
3. On March 14, 2002, Grand Cru Property Thirty-One LLC and Grand Cru Property Thirty-Two LLC, by deed, transferred all right, title and interest in the facility to respondent Olinville Avenue LLC, the facility's current owner. The deed is recorded in the Office of the City Register of the City of New York, in Reel 1977 Page 0388. See Urda Affirmation ¶ 3; Complaint Exhibit B.
4. The Department issued PBS certificate number 2-603654 to Olinville Realty LLC on November 27, 2013. The registration expires on December 16, 2018. See Urda Affirmation ¶ 4; Complaint ¶ 4, Exhibit C.
5. The PBS certificate shows that Olinville Realty LLC is the real property owner and the tank system owner. See Urda Affirmation ¶ 4; Complaint ¶ 4, Exhibit C.
6. Mr. Leonel Batista is an environmental engineer employed by the New York State Department of Environmental Conservation in Region 2. See Batista Affidavit ¶ 1.
7. As part of his duties, Mr. Batista inspects PBS facilities for compliance with ECL article 17 and the PBS regulations. See Batista Affidavit ¶ 2.
8. On June 3, 2016, Mr. Batista inspected the PBS facility located at 2280 Olinville Avenue, Bronx, New York and observed the 6,000 gallon tank was completely covered with cinder blocks without access for inspections. See Batista Affidavit ¶¶ 3, 5, and 7, Exhibits A and B.
9. During his inspection, Mr. Batista found the facility was incorrectly registered in eight different fields and found the facility was in violation of other regulatory requirements. See Batista Affidavit ¶¶ 5-7, Exhibit B.

10. As a result of his inspection, Mr. Batista found that the Facility was incorrectly registered in the following eight fields:
 - A. The PBS tank was fully covered without access for inspections and should have been registered as “underground.” See Batista Affidavit ¶ 5, Exhibit B.
 - B. The product should be registered as “number 4 fuel oil.” See Batista Affidavit ¶ 5.
 - C. The PBS tank type should be registered as “steel tank in concrete.” See Batista ¶ 5, Exhibit B.
 - D. The tank leak detection should be determined and registered. See Batista Affidavit ¶ 5.
 - E. The tank spill prevention should be registered as a “catch basin.” See Batista Affidavit ¶ 5, Exhibit B.
 - F. The tank dispensing method should be registered as an “on-site heating system.” See Batista Affidavit ¶ 5.
 - G. The tank external protection should be registered as “other” because of the cinder block encasement. See Batista Affidavit ¶ 5, Exhibit B.
 - H. Pipe leakage detection should be registered as “other” for visual check. See Batista Affidavit ¶ 5, Exhibit B.

11. During the inspection, Mr. Batista also found the following conditions:
 - A. The Facility did not maintain an as-built diagram. See Batista Affidavit ¶ 6(i).
 - B. The PBS tank was not marked with the tank registration identification number as well as tank design, working capacities, and the type of petroleum to be stored in the tank system. See Batista Affidavit ¶ 6(ii).
 - C. The fill port for the PBS tank was not color coded in accordance with API RP 1637 to identify the petroleum in use at the Facility. See Batista Affidavit ¶ 6(iii), Exhibit B.
 - D. Petroleum was accumulated in the fill-port catch basin. See Batista Affidavit ¶ 6(iv), Exhibit B.
 - E. The Facility was not employing tank leak detection. See Batista Affidavit ¶ 6(v).

12. Mr. Batista sent a Notice of Violation (NOV) to Olinville Realty LLC on June 17, 2016. See Batista Affidavit ¶ 8, Exhibit C.

13. The notice of violation advised respondent Olinville Realty LLC of violations noted at respondent’s facility and advised Olinville Realty LLC that an administrative settlement conference was scheduled for August 4, 2016 at the Department’s Region 2 office. See Batista Affidavit ¶ 8, Exhibit C.

14. Respondent did not respond to the NOV or appear at the August 4, 2016 settlement conference. See Urda Affirmation ¶ 8; Batista Affidavit ¶ 9.

15. By correspondence dated August 16, 2016, Department staff sent an order on consent to respondent. See Urda Affirmation ¶ 9, Exhibit A; Complaint ¶ 7.

16. By correspondence dated December 16, 2016, Department staff sent an order on consent to respondent. See Urda Affirmation ¶ 10, Exhibit B; Complaint ¶ 8.
17. Respondent did not sign and return the orders on consent to the Department or otherwise respond to the Department's offer of settlement. See Urda Affirmation ¶¶ 9 and 10.
18. Respondent failed to answer or respond to the Complaint and failed to appear for the pre-hearing conference on March 17, 2017. See Urda Affirmation ¶¶ 11 and 12, Exhibit C.
19. Respondent failed to respond to Department staff's motion for an order without a hearing and respondent's time to do so has expired.

DISCUSSION

Section 622.12 of 6 NYCRR provides for an order without hearing when upon all the papers and proof filed, the cause of action or defense is established sufficiently to warrant granting summary judgment under the CPLR in favor of any party. "Summary judgment is appropriate when no genuine, triable issue of material fact exists between the parties and the movant is entitled to judgment as a matter of law." (Matter of Frank Perotta, Partial Summary Order of the Commissioner, January 10, 1996, at 1, adopting ALJ Summary Report.)

CPLR 3212(b) provides that a motion for summary judgment shall be granted, "if, upon all the papers and proof submitted, the cause of action or defense shall be established sufficiently to warrant the court as a matter of law in directing judgment in favor of any party." Once the moving party has put forward a prima facie case, the burden shifts to the non-movant to produce sufficient evidence to establish a triable issue. (Matter of Locaparra, Commissioner's Decision and Order, June 16, 2003.)

Respondent has not submitted any response to the Department staff's motion and therefore has failed to provide any material fact that would require a hearing. On an unopposed motion for order without hearing, the issue is whether Department staff has established its entitlement to summary judgment on the violations alleged in the motion. (See Matter of Edelstein, Order of the Commissioner, July 18, 2014, at 2; see also Matter of Hunt, Decision and Order of the Commissioner, July 25, 2006, at 7 n2.)

Pursuant to 6 NYCRR § 622.12(a), staff has supported its motion for an order without hearing with the affidavit of an environmental engineer who inspected respondent's facility, reviewed the PBS facility records maintained by the Department and described the violations of the PBS regulations.

Based on review of the complaint, affirmation, affidavit, and the exhibits thereto, I conclude that Department staff's proof presents a prima facie showing as discussed below.

First Cause of Action

Staff alleges that respondent failed to accurately register the PBS facility in the following eight fields: (1) tank location, (2) product, (3) tank type, (4) tank leak detection, (5) tank spill prevention, (6) tank dispensing method, (7) tank external protection, and (8) pipe leak detection. Department staff has made a prima facie showing on staff's first cause of action that respondent failed to accurately register a PBS facility in violation of 6 NYCRR 613-1.9(a) on each of the eight counts. Respondent failed to accurately register the following: (1) the PBS tank as "underground,"¹ (2) the product as "number 4 fuel oil," (3) the tank type as "steel tank in concrete," (4) the tank leak detection type, (5) the tank spill prevention as a "catch basin," (6) the tank dispensing method as "on-site heating system," (7) the tank external protection as "other" because of the cinder block encasement, and (8) the pipe leak detection as "other" for visual check (see Finding of Fact No. 10).

I conclude that respondent failed to accurately register the PBS facility in violation of 6 NYCRR 613-1.9(a). Staff's motion for order without hearing on the eight counts contained in the first cause of action is granted.

Second Cause of Action

Department staff alleges that respondent failed to maintain an as-built diagram of the facility tank system in violation of 6 NYCRR 613-3.1(b)(4)(ii). Pursuant to 6 NYCRR subpart 613-3, the tank and operating requirements of the subpart are imposed on the facility. Whenever 6 NYCRR part 613 imposes a requirement on a facility that requirement is imposed "on every operator and every tank system owner at the facility, unless expressly stated otherwise." (6 NYCRR 613-1.2[d].) Here, Department staff has demonstrated that respondent is the real property owner and the tank system owner (see Finding of Fact No. 5).

As a result of the June 3, 2016 inspection, Department staff has made a prima facie showing that respondent, as the tank system owner, failed to maintain an as-built diagram in violation of 6 NYCRR 613-3.1(b)(4)(ii) (see Finding of Fact No. 11 [A]). Accordingly, staff's motion for order without hearing on staff's second cause of action is granted.

Third Cause of Action

Department staff alleges that respondent failed to install a label at the fill port specifying the tank registration number, tank design and working capacities, and the type of petroleum that is able to be stored in the underground storage tank system in violation of 6 NYCRR 613-3.2(a)(3).

As discussed above, subpart 613-3 imposes the tank requirements on the tank owner. Department staff has made a prima facie showing that respondent, as the tank system owner, violated 6 NYCRR 613-3.2(a)(3) by failing to install a label at the fill port (see Finding of Fact

¹ Pursuant to 6 NYCRR 613-1.3(br), an underground storage tank system means a tank system that has ten percent or more of its volume beneath the surface of the ground or is covered by materials.

No. 11 [B]). Therefore, staff's motion for order without hearing on staff's third cause of action is granted.

Fourth Cause of Action

Department staff alleges that respondent failed to color-code the facility in accordance with API RP 1637 at or near the fill port to identify petroleum in the system in violation of 6 NYCRR 613-3.2(a)(4).

Department staff has made a prima facie showing that respondent, as the tank system owner, violated 6 NYCRR 613-3.2(a)(4) by failing to color-code a facility at or near the fill port (see Finding of Fact No. 11 [C]). Therefore, staff's motion for order without hearing on staff's fourth cause of action is granted.

Fifth Cause of Action

Department staff alleges that respondent failed to remove accumulated petroleum product from a fill-port catch basin in violation of 6 NYCRR 613-3.2(a)(6).

Department staff has made a prima facie showing that respondent, as the tank system owner, violated 6 NYCRR 613-3.2(a)(6) by failing to maintain spill prevention equipment (see Finding of Fact No. 11 [D]). Therefore, staff's motion for order without hearing on staff's fifth cause of action is granted.

Sixth Cause of Action

Department staff alleges that respondent failed to conduct leak detection on a Category two underground storage tank system storing heating oil in violation of 6 NYCRR 613-3.3(a)(1).

Department staff has made a prima facie showing that respondent, as the tank system owner, violated 6 NYCRR 613-3.3(a)(1) by failing to conduct leak detection on a category two underground storage tank (see Finding of Fact No. 11 [E]). Therefore, staff's motion for order without hearing on staff's sixth cause of action is granted.

Penalty

Department staff requests that respondent be assessed a civil penalty of ten thousand five-hundred dollars (\$10,500). Pursuant to ECL § 71-1929, the Commissioner may impose a maximum daily penalty of thirty-seven thousand five hundred dollars (\$37,500) per day on any person who violates any of the provisions of, or who fails to perform any duty imposed by ECL article 17 title 10 or the regulations promulgated pursuant thereto.

In support of the requested penalty, staff discussed several factors consistent with the Department's Civil Penalty Policy (DEE-1), including the importance of accurately registering PBS facilities to the overall statutory scheme and the Department's ability to monitor PBS facilities for compliance. Staff also took into consideration respondent's lack of cooperation in

addressing the violations. Staff based respondent's lack of cooperation on respondent's failure to respond to the notice of violation, failure to attend the settlement conference, failure to respond to staff's settlement offers, failure to answer the complaint, and failure to appear at a pre-hearing conference or respond to staff's motion (see Findings of Fact Nos. 13-19).

Department staff assigns a penalty of five-hundred dollars (\$500) to each of the eight counts in the first cause of action for a total of four-thousand dollars (\$4,000). Staff assigns a penalty of one-thousand dollars (\$1,000) to each of the second, third, fourth, and fifth causes of actions and a penalty of two-thousand, five-hundred dollars (\$2,500) to the sixth cause of action for a total of ten-thousand, five-hundred dollars (\$10,500).

The penalties requested are a fraction of the maximum statutory penalty that could be assessed against respondent. I also conclude that staff's penalty request is appropriate based on respondent's continued violations of the petroleum bulk storage law and regulations, and respondent's failure to cooperate with Department staff to address the violations. The potential harm from a spill or other failure resulting from lack of appropriate maintenance of respondent's PBS tank further supports the penalty requested. Staff's requested penalty of ten-thousand, five-hundred dollars (\$10,500) is supported and appropriate.

Corrective Action

Department staff requests as part of the relief in this matter that respondent be directed to submit photographic or documentary evidence of complete corrective action within thirty days. Staff's request is reasonable and supported.

CONCLUSIONS OF LAW

1. By failing to accurately register the PBS facility, respondent violated 6 NYCRR 613-1.9(a) (eight counts).
2. By failing to maintain an as-built diagram, respondent violated 6 NYCRR 613-3.1(b)(4)(ii).
3. By failing to install a label at the fill port, respondent violated 6 NYCRR 613-3.2(a)(3).
4. By failing to color-code the facility at or near the fill port, respondent violated 6 NYCRR 613-3.2(a)(4).
5. By failing to maintain spill prevention equipment, respondent violated 6 NYCRR 613-3.2(a)(6).
6. By failing to conduct leak detection on a category two underground storage tank, respondent violated 6 NYCRR 613-3.3(a)(1).

RECOMMENDATIONS

Based on the foregoing, I recommend that the Commissioner issue an order:

1. granting Department staff's motion for order without hearing pursuant to 6 NYCRR 622.12;
2. holding that respondent Olinville Realty LLC violated the following:
 - a. 6 NYCRR 613-1.9(a) by failing to accurately register a PBS facility (eight counts);
 - b. 6 NYCRR 613-3.1(b)(4)(ii) by failing to maintain an as-built diagram;
 - c. 6 NYCRR 613-3.2(a)(3) by failing to install a label at the fill port;
 - d. 6 NYCRR 613-3.2(a)(4) by failing to color-code a facility at or near the fill port;
 - e. 6 NYCRR 613-3.2(a)(6) by failing to maintain spill prevention equipment; and
 - f. 6 NYCRR 613-3.3(a)(1) by failing to conduct leak detection on a category two underground storage tank.
3. directing respondent Olinville Realty LLC to pay a civil penalty of ten-thousand, five-hundred dollars (\$10,500) within fifteen (15) days of service of the Commissioner's order on respondent;
4. directing respondent Olinville Realty LLC to perform the following within thirty (30) days of service of the Commissioner's order on respondent:
 - a. accurately register the PBS facility;
 - b. maintain an as-built diagram;
 - c. install a label at the fill port;
 - d. color code the facility at or near the fill port;
 - e. maintain spill prevention equipment; and
 - f. conduct leak detection on the category two underground storage tank.
5. directing respondent Olinville Realty LLC to submit photographs, documentation or reports, acceptable to the Department, demonstrating that the corrective actions have been completed within thirty (30) days of service of the Commissioner's order on respondent;
6. directing respondent Olinville Realty LLC to submit the penalty payment, registration and fees and all other submissions to the following:

John K. Urda, Esq.
Assistant Regional Attorney
NYSDEC Region 2
One Hunter's Point Plaza
47-40 21st Street
Long Island City, New York 11101-5407; and

7. directing such other and further relief as may be deemed just, proper and equitable under the circumstances.

_____/s/_____
Michael S. Caruso
Administrative Law Judge

Dated: June 29, 2017
Albany, New York

APPENDIX A

Matter of Olinville Realty LLC
DEC File No. R2-20160729-263
Motion for Order Without Hearing

1. Notice of Hearing and Complaint, dated February 13, 2017, attaching the following exhibits:
 - A. NYS Department of State Entity Information Sheets regarding Olinville Realty LLC.
 - B. Deed from Grand Cru Property Thirty-One LLC and Grand Cru Property Thirty-Two LLC to Olinville Realty LLC, dated March 14, 2002.
 - C. NYS Department of Environmental Conservation Petroleum Bulk Storage Certificate No. 2-603654 issued to Olinville Realty LLC on November 27, 2013.
2. Notice of Motion for an Order Without a Hearing, dated March 27, 2017.
3. Affirmation of John K. Urda in Support of Motion for Order Without a Hearing, dated March 27, 2017, attaching the following exhibits:
 - A. Correspondence from John K. Urda, Esq. to respondent Olinville Realty LLC, dated August 16, 2016.
 - B. Correspondence from John K. Urda, Esq. to respondent Olinville Realty LLC, dated December 16, 2016.
 - C. Affirmation of Service of Notice of Hearing and Complaint of John K. Urda, Esq., dated March 27, 2017, with USPS tracking and signed Domestic Return Receipt confirming delivery.
4. Affidavit of Leonel Batista in Support of Motion for Order Without a Hearing, sworn to March 27, 2017, attaching the following exhibits:
 - A. Photographs (2) of entrance to the residential apartment building at 2280 Olinville Avenue, Bronx, New York.
 - B. Photographs of (1) the facility PBS tank covered with cinder blocks, (2) the facility fill port and catch basin, without color coding, (3) the Facility fill port without labelling, and with fuel oil accumulated in the catch basin, located at 2280 Olinville Avenue, Bronx, New York.
 - C. Notice of Violation from Leonel Batista to Olinville Realty LLC, dated June 17, 2016.
5. Affirmation of Service of Motion for Order Without Hearing and supporting papers of John K. Urda, dated March 27, 2017, with USPS tracking and signed Domestic Return Receipt confirming delivery.