



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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Charles D. Baker
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Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner

April 8, 2019

In the Matter of
Harwich Gas, Diesel, and Propane, LLC

Docket No. 2017-042
DEP File No.: RPAN-BO-17-U-142

FINAL DECISION

Martin Suuberg, the Commissioner of the Massachusetts Department of Environmental Protection ("MassDEP" or "the Department"), has designated me as the Final Decision Maker in this appeal.

The Petitioner Harwich Gas, Diesel, and Propane, LLC filed this appeal challenging a \$500.00 Reporting Penalty Assessment Notice ("RPAN" or "Civil Administrative Penalty") that the Boston Office of the Massachusetts Department of Environmental Protection ("MassDEP" or "the Department") issued to the Petitioner on November 21, 2017 for purportedly failing to file an Underground Storage Tank ("UST") Compliance Certification with the Department by the compliance deadline in violation of the Underground Storage Tank ("UST") Systems Regulations at 310 CMR 80.34(1). RPAN, at p. 1.

Currently pending before me for review pursuant to 310 CMR 1.01(8)(c), is a proposed

Settlement Agreement that the Petitioner and the Department have executed to settle the Petitioner's appeal of the RPAN. The Settlement Agreement is in the form of an Administrative Consent Order With Penalty and Notice of Non-Compliance ("Administrative Consent Order") that was executed by: (1) Dany Mace Kairouz for the Petitioner on May 30, 2018 and (2) by Geri Lambert for the Department on June 6, 2018 (ACOP-BO-18-U142-SETT).

After reviewing the Consent Order, I find that it is reasonable and furthers the statutory and regulatory interests of G.L. c. 21O, § 5; G.L. c. 21C; G.L. c. 21E, § 6; G.L. c. 21A, § 16; and the Department's UST Systems Regulations at 310 CMR 80.34(1). Accordingly, I issue this Final Decision approving and incorporating the Administrative Consent Order. Pursuant to the Administrative Consent Order, I issue the following Orders:

- (1) In accordance with ¶ 29 of the Consent Order, the effective date of the Administrative Consent Order is the date of this Final Decision.
- (2) In accordance with ¶ 10 of the Administrative Consent Order, by September 29, 2019 the Petitioner shall submit the fully completed 2019 UST Compliance Certification, in compliance with 310 CMR 80.34(1), to Patti Mullan, Lead UST Program Contact, MassDEP, One Winter Street, Boston, MA 02108.
- (3) In accordance with ¶¶ 13 and 23 of the Administrative Consent Order, based on the Petitioner's previous submittal of its UST Compliance Certification on December 4, 2017, the Petitioner's payment of the \$500.00 RPAN penalty amount at issue in this appeal is suspended provided the Petitioner: (a) submits its 2019 UST Compliance Certification by September 29, 2017 in accordance with ¶ 10 the Administrative Consent Order and ¶ 2 of this Final Decision and (b) does not violate any provision of 310 CMR 80.00 within one year of the

date of this Final Decision.

(4) In accordance with ¶¶ 13 and 23 of the Administrative Consent Order, If the Petitioner: (a) fails to submit its 2019 UST Compliance Certification by September 29, 2019 in accordance with ¶ 10 the Administrative Consent Order and ¶ 2 of this Final Decision or (b) violates any provision of 310 CMR 80.00 within one year of the date of this Final Decision, the Petitioner shall pay to the Commonwealth of Massachusetts the full amount of the suspended \$500.00 RPAN Penalty amount at issue in this appeal within 30 days after the Department issues the Petitioner a written demand for payment of that sum.

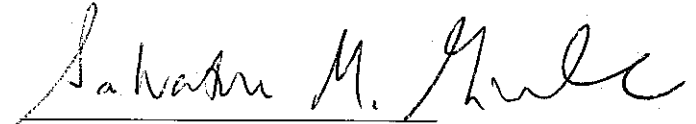
(5) In accordance with ¶¶ 22 and 23 of the Administrative Consent Order, if the Petitioner violates ¶ 13 of the Administrative Consent Order, the Petitioner shall pay to the Commonwealth, in addition to the \$500.00 RPAN Penalty amount at issue in this appeal as set forth in ¶ 13 of the Administrative Consent Order and discussed above in ¶¶ 3 and 4, stipulated civil administrative penalties to the Commonwealth in the amount of one hundred dollars (\$100.00) per day for each day, or a portion thereof, each such violation continues.

(6) In accordance with ¶ 23 of the Administrative Consent Order and G.L. c. 21A, § 16, if the Petitioner fails to pay in full any civil administrative penalty as required by the Administrative Consent Order as set forth above, the Petitioner will be liable to the Commonwealth for up to three (3) times the amount of the civil administrative penalty, together with costs, plus interest on the balance due from the time such penalty became due and attorney's fees, including all costs and attorney's fees incurred in the collection thereof. The rate of interest will be the rate set forth in G.L. c. 231, § 6C.

(7) In accordance with ¶¶ 17 and 28 of the Administrative Consent Order,¹ G.L.

¹ The Administrative Consent Order at p. 5 has two paragraphs numbered 28. The reference above in the text to
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c. 30A, and 310 CMR 1.01(8)(c), this appeal is dismissed with the parties waiving whatever rights they may have to further administrative review before the Department as well as any appeal to Court.



Salvatore M. Giorlandino
Chief Presiding Officer

¶ 28 is to both paragraphs.

SERVICE LIST

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