



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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Lieutenant Governor

Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner

January 17, 2019

In the Matter of
Hasmukh Gogri and Gogri, Inc.

Docket No. 2018-015
File No. RPAN-BO-18-U-32
Springfield

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.

On July 31, 2018, the Petitioners Hasmukh Gogri and Gogri, Inc. filed this appeal challenging a \$500.00 Reporting Penalty Assessment Notice (“RPAN” or “Civil Administrative Penalty”) that the Department issued to the Petitioners on July 9, 2018 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. On August 3, 2018, during the pendency of this appeal, the Petitioners, on their own initiative, paid the \$500.00 RPAN amount

to the Commonwealth, but reserved their right to challenge the RPAN by continuing to pursue this appeal.

Currently pending before me for review pursuant to 310 CMR 1.01(8)(c), is a proposed Settlement Agreement that the Petitioners and the Department have executed to settle the Petitioners' 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) Hasmukh Gogri for the Petitioners on November 29, 2018 and (2) by Geri Lambert for the Department on December 4, 2018 (ACOP-BO-18-U32-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 ¶ 15 of the Administrative Consent Order, within 30 days of the date of this Final Decision the Petitioners shall update their Owner/Operator Registration to include a valid e-mail address. The Department's online registration and reporting system is designed to provide direct e-mail reminders for all reporting requirements to assist with facility compliance. At this time, the Petitioners do not receive these reminders because the Petitioners' Registration is incomplete. The Department has staff available to assist the Petitioners with this required action.

(3) In accordance with ¶¶ 22 and 23 of the Administrative Consent Order, if the

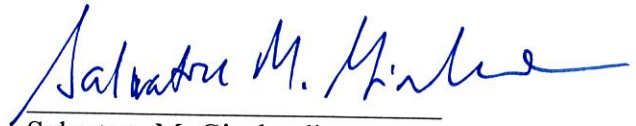
Petitioners violate ¶ 15 of the Administrative Consent Order, the Petitioner shall pay to the Commonwealth, in addition to the \$400.00 civil administrative penalty set forth in ¶ 16 of the Administrative Consent Order and discussed below in ¶ 4, stipulated civil administrative penalties to the Commonwealth in the amount of one hundred dollars (\$100.00) per day for each day, or a portion thereof, each such violation continues.

(4) Paragraphs 16 and 23 of the Administrative Consent require the Petitioners to pay the Commonwealth \$400.00 within 30 days of the date of this Final Decision as a civil administrative penalty in settlement of the original \$500.00 RPAN amount. However, the Petitioners have already paid the \$400.00 due the Commonwealth under ¶¶ 16 and 23 the Administrative Consent Order because, as noted above, in August 2018, the Petitioners paid the original \$500.00 RPAN amount to the Commonwealth, but reserved their right to challenge the RPAN by continuing to pursue this appeal. Hence, the Commonwealth owes \$100.00 to the Petitioners. The Department shall use reasonable efforts to procure the Commonwealth's refund of the \$100.00 to the Petitioners as soon as possible.

(5) In accordance with ¶ 23 of the Administrative Consent Order and G.L. c. 21A, § 16, if the Petitioners fail to pay in full any civil administrative penalty as required by the Administrative Consent Order as set forth above, the Petitioners 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.

(6) In accordance with ¶¶ 11 and 28 of the Administrative Consent Order, G.L.

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

SERVICE LIST

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Representative

Party

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DEPARTMENT

Date: January 17, 2019