

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No. 23-115
)	(Enforcement - Air)
TRUSHAR PATEL, an individual,)	
d/b/a SHIVAM ENERGY, INC.,)	
RAJANI P. PATEL, an individual,)	
d/b/a SHIVAM ENERGY, INC.,)	
and JAY PATEL, an individual,)	
)	
Respondents.)	

NOTICE OF FILING

To: Attached service List

Please take notice that on Wednesday, September 13, 2023, I caused to be filed Complainant’s Motion for Leave to File Amended Complaint, with the Clerk of the Illinois Pollution Control Board via the “COOL” System and attached hereto and hereby served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. KWAME RAOUL,
Attorney General of the
State of Illinois

/s/ Cara V. Sawyer
CARA V. SAWYER
Assistant Attorney General
Environmental Bureau
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(312) 814-3094
(773) 758-4583
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SERVICE LIST

Mr. Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
60 E. Van Buren Street, Suite 630
Chicago, IL 60605
Brad.Halloran@illinois.gov
(Via Email)

Trushar Patel, Owner
d/b/a Shivam Energy, Inc.
841 Bodin Street
Hinsdale, IL 60521
jiten.patel.k@gmail.com
(Via Certified Mail and email)

Rajani P. Patel, President
d//b/a Shivam Energy, Inc.
96 Santa Fe Court
Willow Springs, IL 60480-1669
(Via Certified Mail)

Jay Patel
d/b/a Shivam Energy, Inc.
399 Liberty Street
Wauconda, IL 60084
(Via Certified Mail)

CERTIFICATE OF SERVICE

I, CARA V. SAWYER, an attorney, do certify that I caused to be served this 13th day of September, 2023, the Notice of Filing and Motion for Leave to File Amended Complaint upon the person listed on service list by methods described.

/s/ Cara V. Sawyer
CARA V. SAWYER
Assistant Attorney General
Environmental Bureau
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MOTION TO FILE FIRST AMENDED COMPLAINT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, and pursuant to 735 ILCS 5/2-616 and 35 Ill. Adm. Code 101.100(b), moves the Board for leave to file its First Amended Complaint. A copy of Complainant’s proposed amended complaint is attached hereto as Exhibit A. In support of its Motion, Complainant states as follows:

I. STANDARD FOR AMENDED PLEADINGS

Amendment of Board pleadings is governed by 35 Ill. Adm. Code 103.204. However, the Board, in its discretion, may look to guidance from the Code of Civil Procedure or the Illinois Supreme Court Rules.

Illinois courts are encouraged to freely and liberally allow amendment. *Luciano v. Waubonsee Community College*, 245 Ill. App. 3d 1077, 1087 (2nd Dist. 1993); *Lee v. Chicago Transit Authority*, 152 Ill. 2d 432, 467 (1992). Amendments may be allowed before final judgment so long as they are on just and reasonable terms. *Loyola Academy v. S&S Roof*

Maintenance, Inc., 146 Ill. 2d 263, 273 (1992). The primary consideration is whether the amendment would further the interests of justice. *Bresland v. Ideal Roller & Graphics Company*, 150 Ill. App. 3d 445,450 (1st Dist. 1986). Based on developments occurring since filing of the original Complaint in this matter, amendment of this case to include the parties herein proposed will further the interests of justice.

II. PROPOSED AMENDMENT

Complainant seeks to amend the complaint filed on May 11, 2023 to remove Shivam Energy, Inc. (“Shivam”) as a Respondent, and to add Trushar Patel, an individual, d/b/a Shivam Energy, Inc., Rajani P. Patel, d/b/a Shivam Energy, Inc., and Jay Patel, an individual, as Respondents.

This matter relates to violation of Board regulations regarding the decommissioning of gasoline station vapor recovery systems and failure to report to the Illinois Environmental Protection Agency. In this case, the vapor recovery systems were located a gasoline dispensing facility located at 309 Liberty St., Wauconda, Lake County, Illinois, 60084 (“Facility”). Respondent Shivam was formerly the operator of the Facility, but Shivam was involuntarily dissolved by the Illinois Secretary of State on February 14, 2016 and has not operated the Facility since this date. However, Respondents Trushar Patel, Rajani P. Patel, and Jay Patel have owned and/or operated the Facility at all times relevant to the Complaint. Owners and operators are both responsible for compliance with the applicable vapor recovery decommissioning regulations.

Accordingly, amendment of the Complaint will further the interests of justice.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board grant its Motion and allow it to file its First Amended Complaint.

RESPECTFULLY SUBMITTED,

PEOPLE OF THE STATE OF ILLINOIS
by KWAME RAOUL,
Attorney General of the State of Illinois

BY: /s/ Cara V. Sawyer
CARA V. SAWYER
Environmental Bureau
Assistant Attorney General
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 Complainant,)
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 v.)
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 d/b/a SHIVAM ENERGY, INC.,)
 RAJANI P. PATEL, an individual,)
 d/b/a SHIVAM ENERGY, INC.,)
 and JAY PATEL, an individual,)
)
 Respondents.)

PCB No. 23-115
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EXHIBIT A

AMENDED COMPLAINT

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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and JAY PATEL, an individual,)	
)	
Respondents.)	

FIRST AMENDED COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois (“Complainant”), complains of the Respondents TRUSHAR PATEL, individually and d/b/a SHIVAM ENERGY, INC., RAJANI P. PATEL, individually and d/b/a SHIVAM ENERGY, INC., and JAY PATEL, an individual, as follows:

COUNT I

FAILURE TO TIMELY DECOMMISSION VAPOR COLLECTION AND CONTROL SYSTEM AND SUBMIT REPORTS

1. This Complaint is brought on behalf of the People of the State of Illinois by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), against TRUSHAR PATEL, an individual d/b/a SHIVAM ENERGY, INC., (“Trushar Patel”), RAJANI P. PATEL (“Rajani Patel”), an individual d/b/a SHIVAM ENERGY, INC., and JAY PATEL (“Jay Patel”), an individual

(collectively “Respondents”) pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2022).

2. The Illinois EPA is an administrative agency of the State of Illinois created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2022), and is charged, inter alia, with the duty of enforcing the Act.

3. From at least January 1, 2017 until the filing of this Amended Complaint, Trushar Patel owned and/or operated, and continues to own and/or operate, a gasoline dispensing facility located at 399 W. Liberty Street, Wauconda, Illinois, 60084 (the “Facility”).

4. At all times relevant to this Complaint, Trushar Patel has been and is an individual and a resident of Illinois.

5. From at least January 1, 2017 until the filing of this Amended Complaint, Rajani Patel owned and/or operated, and continues to own and/or operate, the Facility.

6. At all times relevant to this Complaint, Rajani Patel was and is an individual and a resident of Illinois.

7. From at least January 1, 2017 until the filing of this Amended Complaint, Jay Patel operated, and continues to operate, the Facility.

8. At all times relevant to this Complaint, Jay Patel was and is an individual.

9. From at least January 1, 2017 through the date of filing of this Complaint, or dates better known to Respondent Trushar Patel, Respondent Trushar Patel owned and/or operated, and continues to own and/or operate, gasoline dispensing pumps at the Facility that emit volatile organic compounds (“VOCs”) into the environment.

10. From at least January 1, 2017 through the date of filing of this Complaint, or dates better known to Respondent Rajani Patel, Respondent Rajani Patel owned and/or operated, and

continues to own and/or operate, gasoline dispensing pumps at the Facility that emit VOCs into the environment.

11. From at least January 1, 2017 through the date of filing of this Complaint, or dates better known to Respondent Jay Patel, Respondent Jay Patel operated, and continues to operate, gasoline dispensing pumps at the Facility that emit VOCs into the environment.

12. Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), provides as follows:

No person shall:

- (a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

13. Section 3.315 of the Act, 415 ILCS 5/3.315 (2022), provides the following definition:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

14. Respondents, as individuals, are each a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

15. Section 3.165 of the Act, 415 ILCS 5/3.165 (2022), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

16. VOCs are “contaminants” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2022).

17. Section 218.586(i)(1)(B) of the Illinois Pollution Control Board (“Board”) Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), provides as follows:

No later than December 31, 2016, an owner or operator of a gasoline dispensing operation shall complete the decommissioning of all vapor collection and control systems in accordance with all of the provisions specified in subsection (i)(2).

18. Section 218.586(a)(7) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(a)(7), provides the following definition:

“Gasoline dispensing operation” means any operation where motor vehicle fuel is dispensed into motor vehicle fuel tanks or portable containers from a storage tank with a capacity of 2176 liters (575 gallons) or more.

19. The Facility is a “gasoline dispensing operation,” as that term is defined in Section 218.586(a)(7) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(a)(7).

20. Section 218.586(a)(11) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(a)(11), provides the following definition:

“Owner” or “operator” means any person who owns, leases, operates, manages, supervises or controls (directly or indirectly) a gasoline dispensing operation.

21. Respondents are each an “owner” or “operator,” as that term is defined in Section 218.586(a)(11) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(a)(11).

22. Section 218.586(i)(2)(A) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(A), provides as follows:

The owner or operator of a gasoline dispensing operation shall complete and submit a notice of intent form, provided by the Agency, notifying the Agency of its intent to decommission. The completed notice of intent form shall be submitted to the Agency at least 10 days prior to commencing decommissioning in accordance with subsection (i)(2)(B);

23. Section 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(C), provides as follows:

The owner or operator of a gasoline dispensing operation and the contractors that performed the decommissioning shall complete and sign a decommissioning checklist and certification, provided by the Agency, documenting the decommissioning procedures performed. Within 30 days after completion of the decommissioning procedures specified by subsection (i)(2)(B), the owner or operator shall provide the completed checklist and certification and the test results to the Agency.

24. By December 31, 2016, Respondent Trushar Patel was required to decommission the Facility's vapor collection and control system in accordance with Section 218.586(i)(1)(B) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), and therefore was required to submit a notice of intent to decommission at least 10 days prior to commencing decommissioning pursuant to Section 218.586(i)(2)(A) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(A), and also submit a decommissioning checklist, certification, and test results within 30 days after completion of decommissioning procedures, pursuant to Section 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(C).

25. As of the date of filing of this Complaint, Respondent Trushar Patel failed to submit a notice of intent, or a decommissioning checklist, certification, or test results to Illinois EPA.

26. By December 31, 2016, Respondent Rajani Patel was required to decommission the Facility's vapor collection and control system in accordance with Section 218.586(i)(1)(B) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), and therefore was required to submit a notice of intent to decommission at least 10 days prior to commencing decommissioning pursuant to Section 218.586(i)(2)(A) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(A), and also submit a decommissioning checklist, certification, and

test results within 30 days after completion of decommissioning procedures, pursuant to Section 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(C).

27. As of the date of filing of this Complaint, Respondent Rajani Patel failed to submit a notice of intent, or a decommissioning checklist, certification, or test results to Illinois EPA.

28. By December 31, 2016, Respondent Jay Patel was required to decommission the Facility's vapor collection and control system in accordance with Section 218.586(i)(1)(B) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), and therefore was required to submit a notice of intent to decommission at least 10 days prior to commencing decommissioning pursuant to Section 218.586(i)(2)(A) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(A), and also submit a decommissioning checklist, certification, and test results within 30 days after completion of decommissioning procedures, pursuant to Section 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(C).

29. As of the date of filing of this Complaint, Respondent Jay Patel failed to submit a notice of intent, or a decommissioning checklist, certification, or test results to Illinois EPA.

30. From January 1, 2017 until the date of filing of this Complaint, or dates better known to Respondent Trushar Patel, by failing to timely submit a notice of intent to decommission and failing to timely submit a notice of intent, decommissioning checklist, certification, and test results to Illinois EPA, Respondent Trushar Patel violated Sections 218.586(i)(2)(A) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(A) and 218.586(i)(2)(C).

31. From January 1, 2017 until the date of filing of this Complaint, or dates better known to Respondent Rajani Patel, by failing to timely submit a notice of intent to decommission and failing to timely submit a notice of intent, decommissioning checklist, certification, and test

results to Illinois EPA, Respondent Rajani Patel violated Sections 218.586(i)(2)(A) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(A) and 218.586(i)(2)(C).

32. From January 1, 2017 until the date of filing of this Complaint, or dates better known to Respondent Jay Patel, by failing to timely submit a notice of intent to decommission and failing to timely submit a notice of intent, decommissioning checklist, certification, and test results to Illinois EPA, Respondent Jay Patel violated Sections 218.586(i)(2)(A) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(A) and 218.586(i)(2)(C).

33. On information and belief, Respondent Trushar Patel failed to timely decommission his vapor collection and control system and thereby violated Section 218.586(i)(1)(B) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B).

34. On information and belief, Respondent Rajani Patel failed to timely decommission his vapor collection and control system and thereby violated Section 218.586(i)(1)(B) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B).

35. On information and belief, Respondent Jay Patel failed to timely decommission his vapor collection and control system and thereby violated Section 218.586(i)(1)(B) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B).

36. By violating Sections 218.586(i)(1)(B), 218.586(i)(2)(A), and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), 218.586(i)(2)(A), and 218.586(i)(2)(C), Respondent Trushar Patel caused or threatened or allowed the discharge or emission of VOCs into the environment so as to violate regulations adopted by the Board, and has thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022).

37. By violating Sections 218.586(i)(1)(B), 218.586(i)(2)(A), and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), 218.586(i)(2)(A), and 218.586(i)(2)(C), Respondent Rajani Patel caused or threatened or allowed the discharge or emission of VOCs into the environment so as to violate regulations adopted by the Board, and has thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022).

38. By violating Sections 218.586(i)(1)(B), 218.586(i)(2)(A), and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), 218.586(i)(2)(A), and 218.586(i)(2)(C), Respondent Jay Patel caused or threatened or allowed the discharge or emission of VOCs into the environment so as to violate regulations adopted by the Board, and has thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondents, TRUSHAR PATEL individually and d/b/a SHIVAM ENERGY, INC., RAJANI P. PATEL individually and d/b/a SHIVAM ENERGY, INC., and JAY PATEL, an individual, with respect to Count I:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;

2. Finding that Respondents have each violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Sections 218.586(i)(1)(B), 218.586(i)(2)(A), and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), 218.586(i)(2)(A), and 218.586(i)(2)(C);

3. Ordering Respondents to cease and desist from any future violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Sections 218.586(i)(1)(B), 218.586(i)(2)(A), and

218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), 218.586(i)(2)(A), and 218.586(i)(2)(C);

4. Requiring Respondents to decommission its vapor collection and control system pursuant to Section 218.586(i)(1)(B) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), and submit a decommissioning checklist, certification, and test results to Illinois EPA pursuant to Section 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(C);

5. Assessing against each Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

6. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees against Respondents; and

7. Granting such other relief as the Board deems appropriate and just.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
by KWAME RAOUL, Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

/s/ Stephen J. Sylvester
STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

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