

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
 by KWAME RAOUL, Attorney )  
 General of the State of Illinois, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 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. )

PCB No. 23-115  
 (Enforcement - Air)

**NOTICE OF FILING**

To: Attached Service List

Please take notice that on Friday, March 29, 2024, I caused to be filed Complainant’s Motion for Leave to File Second Amended Complaint, and Motion to Voluntarily Dismiss Respondents Trushar Patel d/b/a Shivam Energy, Inc., Rajani P. Patel d/b/a Shivam Energy, and Jay Patel, an individual, without prejudice, with the Clerk of the Illinois Pollution Control Board via the “COOL” System, 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  
 69 West Washington Street, Suite 1800  
 Chicago, Illinois 60602  
 (312) 814-3094  
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**SERVICE LIST**

Mr. Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
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(Via Email)

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841 Bodin Street  
Hinsdale, IL 60521  
[pateltrushar@gmail.com](mailto:pateltrushar@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)

Jay Shri Ganesha, Inc.  
c/o Indravadan A. Patel  
1584 Brookside Drive  
Hoffman Estates, IL 60169-1048  
[jiten.patel.k@gmail.com](mailto:jiten.patel.k@gmail.com)  
(Via Certified Mail and Email)

Jay Shri Ganesha, Inc.  
c/o Indravadan A. Patel  
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 29th day of March, 2024, the Notice of Filing and Motion for Leave to File Second Amended Complaint, and Motion to Voluntarily Dismiss Respondents, Trushar Patel d/b/a Shivam Energy, Inc., Rajani P. Patel d/b/a Shivam Energy and Jay Patel, an individual, without prejudice, upon the persons listed on the above service list by methods described.

*/s/ Cara V. Sawyer*  
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Environmental Bureau  
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by KWAME RAOUL, Attorney	)	
General of the State of Illinois,	)	
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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.	)	

**MOTION TO FILE SECOND 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 this Pollution Control Board (“Board”) for leave to file its Second 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 Section 103.204 of the Board’s procedural rules, 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 initial and First Amended Complaints in this matter, amendment of this case to include the party herein proposed will further the interests of justice.

## **II. PROPOSED AMENDMENT**

Complainant seeks to amend its First Amended Complaint filed on September 13, 2023 to remove Trushar Patel, an individual, d/b/a Shivam Energy, Inc., Rajani P. Patel, d/b/a Shivam Energy, Inc., and Jay Patel, an individual, and add Jay Shri Ganesha, Inc. d/b/a Shivam Energy, Inc. d/b/a Marathon Gas.

This matter relates to violation of Board regulations regarding the decommissioning of a gasoline station vapor recovery system and failure to report to the Illinois Environmental Protection Agency. In this case, the vapor recovery system was located a gasoline dispensing facility located at 309 Liberty St., Wauconda, Lake County, Illinois, 60084 (“Facility”). Contrary to documentation Complainant relied on to file its First Amended Complaint, subsequent analysis and investigation determined that neither Respondent Trushar Patel nor Respondent Rajani P. Patel owned or operated the Facility during the time period of the violation. Complainant is also moving to dismiss Jay Patel. Respondent Jay Shri Ganesha, Inc. has 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 Second 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  
Assistant Attorney General  
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**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. )

**MOTION TO FILE SECOND AMENDED COMPLAINT**

EXHIBIT A

SECOND AMENDED COMPLAINT

**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)
JAY SHRI GANESHA INC.,	)	
an Illinois corporation,	)	
d/b/a Shivam Energy, Inc., and	)	
d/b/a Marathon Gas,	)	
Respondent.	)	

**SECOND AMENDED COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois (“Complainant”), complains of Respondent JAY SHRI GANESHA INC., 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 JAY SHRI GANESHA INC., (“Jay Shri Ganesha” or “Respondent”), 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 Second Amended Complaint, Jay Shri Ganesha 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 Second Amended Complaint, Respondent Jay Shri Ganesha was an Illinois corporation authorized to conduct business in Illinois doing business as Shivam Energy, Inc. and as Marathon Gas.

5. At all times relevant to this Second Amended Complaint, Respondent Jay Shri Ganesha 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.

6. On October 2, 2023, Respondent submitted the decommissioning checklist and certification to the Illinois EPA.

7. According to the decommissioning checklist submitted to Illinois EPA, Respondent decommissioned its vapor collection and control system on November 13, 2018.

8. On October 3, 2023 and pursuant to Illinois EPA instructions, Respondent submitted its most recent annual report in lieu of the required original decommissioning test results. Illinois EPA found such annual report acceptable.

9. 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.

10. 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.

11. Respondent, as a corporation, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

12. 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.

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

14. 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).

15. 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.

16. 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).

17. 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.

18. Respondent is an “owner” and/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).

19. 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);

20. 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.

21. By December 31, 2016, Respondent 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).

22. Respondent never submitted a notice of intent to Illinois EPA.

23. Respondent did not submit its decommissioning checklist and certification to Illinois EPA until October 2, 2023.

24. Respondent did not submit a suitable alternative to submission of test results to Illinois EPA until October 3, 2023.

25. From January 1, 2017 until October 2 and 3, 2023, or dates better known to Respondent, 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 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).

26. Respondent failed to timely decommission its vapor collection and control system from January 1, 2017 until November 13, 2018, and thereby violated Section 218.586(i)(1)(B) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B).

27. 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 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 Respondent, JAY SHRI GANESHA INC., with respect to Count I:

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

2. Finding that Respondent has 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 Respondent 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. Assessing against 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;

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

***[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]***

6. 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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Assistant Attorney General  
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Illinois Attorney General's Office  
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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. )

**MOTION TO VOLUNTARILY DISMISS RESPONDENTS TRUSHAR PATEL D/B/A SHIVAM ENERGY, INC., RAJANI P. PATEL D/B/A SHIVAM ENERGY, INC., AND JAY PATEL, AN INDIVIDUAL, WITHOUT PREJUDICE**

Complainant, PEOPLE OF THE STATE OF ILLINOIS by KWAME RAOUL, Attorney General of the State of Illinois (“Complainant”), moves the Pollution Control Board (“Board”) to dismiss Respondents 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, from this matter, without prejudice and without costs pursuant to Section 101.500(a) of the Board’s General Rules (“General Rules”), 35 Ill. Adm. Code 101.500(a) and Sections 2-1009 and 5-117 of the Illinois Code of Civil Procedure (“Code”), 735 ILCS 5/2-1009 and 5/5-117 (2022).<sup>1</sup>

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<sup>1</sup> The General Rules do not specifically provide for a motion for voluntary dismissal; however, Section 101.100(b) of the General Rules, 35 Ill. Adm. Code 101.100(b) (2022) states that “the Board may look to the Code of Civil Procedure and the Supreme Court Rules for guidance when the Board’s procedural rules are silent.”

In support thereof, Complainant states as follows:

1. On May 11, 2023, Complainant filed the initial Complaint in this matter, alleging violations of the Act and Board regulations mandating the decommissioning of gas station vapor recovery systems against Shivam Energy, Inc. (“Shivam”). Shivam was the former operator of a gasoline dispensing facility located at 309 Liberty St., Wauconda, Lake County, Illinois, 60084 (“Facility”).

2. On September 13, 2023, Complainant filed its First Amended Complaint, alleging violations of the Act and Board regulations mandating the decommissioning of gas station vapor recovery systems against Respondents Trushar Patel d/b/a Shivam Energy, Inc., Rajani P. Patel d/b/a Shivam Energy, Inc., and Jay Patel. Concurrently, Complainant moved to dismiss Shivam.

3. Contrary to documentation Complainant relied on to file its First Amended Complaint, subsequent analysis and investigation determined that neither Respondent Trushar Patel nor Respondent Rajani P. Patel owned or operated the Facility during the time of the violation.

4. As of the date of filing of this Motion, Complainant has been unable to perfect service on Jay Patel.

5. Simultaneously with the filing of this Motion, Complainant is filing its Motion for Leave to Amend the First Amended Complaint to include the current owner of the Facility, Jay Shri Ganesha, Inc. (“Jay Shri Ganesha”) as Respondent.

6. Section 101.500(a) of the Board’s Regulations, 35 Ill. Adm. Code 101.500, provides the following:



The Board may entertain any motion the parties wish to file that is permissible under . . . the Code of Civil Procedure.

7. Section 2-1009(a) of the Code, 735 ILCS 5/2-1009(a) (2022), provides as follows:

The plaintiff may, at any time before trial or hearing begins, upon notice to each party who has appeared or each such party's attorney, and upon payment of costs, dismiss his or her action or any part thereof as to any defendant, without prejudice, by order filed in the cause.

8. As this matter has not yet reached trial, Complainant is authorized by Section 2 1009(a) to dismiss its actions without prejudice.

9. Section 5-117 of the Code, 735 ILCS 5/5-117 (2022), provides, in relevant part, as follows:

In all actions commenced or to be commenced for and on behalf of the people of this state . . . if the action is voluntarily dismissed by the plaintiff . . . the defendant shall not recover any costs whatever.

10. As provided by the plain language of Sections 2-1009(a) and 5-117 of the Code, 735 ILCS 5/2-1009(a) and 5/5-117 (2022), Complainant requests that the Board grant its Motion to Voluntarily Dismiss the above-named respondents without prejudice with the parties to each bear their own costs.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant its Motion and dismiss Respondents 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, from this matter, without prejudice, and without costs.

Respectfully submitted,

BY: /s/ Cara V. Sawyer  
CARA V. SAWYER  
Assistant Attorney General  
Environmental Bureau  
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