UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



REGION 2 290 BROADWAY NEW YORK, NY 10007-1866

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SEP 1 2 2016

<u>CERTIFIED MAIL-RETURN RECEIPT REQUESTED</u> Article Number: 7015 3010 0000 7504 1099

Harminder Singh, Chief Executive Officer Bolla Operating Corp. 809 Stewart Ave. Garden City, NY 11530

Re: Underground Storage Tank (UST) Compliance Inspections of:

King's Bay Mobil 5025 Bay Parkway Brooklyn, NY 11230 NYSDEC PBS #2-157325

Final Expedited Settlement Docket No, RCRA-02-2016-7707

Dear Mr. Singh:

The U.S. Environmental Protection Agency (EPA) Region 2 is in receipt of Bolla Operating Corp.'s penalty payment of \$10,650, the signed Expedited Settlement Agreement, and the documentation that the USTs at the above referenced facilities are now in compliance. By signing the Expedited Settlement Agreement you have agreed to the terms of the Expedited Settlement Agreement and Final Order and have certified that all violations cited in the proposed Expedited Settlement Agreement were corrected.

Enclosed you will find a copy of the Expedited Settlement Agreement and Final Order issued by EPA. EPA has approved the Expedited Settlement Agreement based on your signed certification and supporting compliance documentation. EPA will take no further civil action against you for the violations listed in Proposed Expedited Settlement Agreement provided that all listed violations were timely corrected. EPA may choose to re-inspect the USTs located at Bolla Operating Corp.'s facility, and if EPA identifies any violations of federal UST regulations during the re-inspection or from any other information obtained by EPA, such findings would be Bolla Operating Corp.'s second violation of federal underground storage tank (UST) regulations. A second offense may result in a civil or judicial action which can include seeking penalties of up to \$22,587 per UST system per day of violation

If you have any questions regarding this letter or any other related matter, please contact me at (212) 637-4237 or by e-mail at sacker paul@epa.gov. Thank you for your cooperation.

Sincerely.

Paul Sacker, Acting Team Leader UST Team

Enclosure

cc: Russ Brauksieck NYSDEC Chief – Facility Compliance Section Division of Environmental Remediation 625 Broadway 11th Floor Albany, NY 12233-7020

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION II

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IN THE MATTER OF:	
Bolla Operating Corp.	

Respondent

Docket No. RCRA-02-2016-7707

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EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency ("EPA") has determined that Bolla Operating Corp. (the "Bolla" or "Respondent"), owner and operator of the Underground Storage Tanks ("USTs") at a facility located at King's Bay Mobil, 5025 Bay Parkway, Brooklyn, NY (the "UST Facility"), failed to comply with the following requirement(s) of Subtitle I of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6991 *et seq.*, and its implementing regulations at 40 C.F.R. Part 280.

> 40 C.F.R. § 280.41(a) requires that all owner/operators of USTs must monitor their tanks for releases at least every 30 days. EPA's November 28, 2014 information request letter ("IRL") requested that Respondent describe how release detection ("RD") was conducted for the USTs at this gas station. Respondent's first IRL response dated February 23, 2015 stated that the automatic tank gauge ("ATG") used to conduct electronic interstitial monitoring ("EIM") was moved during construction to a location without connectivity and no ATG records were produced from at least October 1, 2013 through November 1, 2013. The IRL response stated that "no employees went into construction zone" implying that no employees checked the ATG to verify or document RD during this period. Respondent offered 10-day inventory reconciliation for the two regular and two premium tanks as an alternate form of RD but offered nothing for the diesel tank. However, this release detection method is not approved by 40 C.F.R. Part 280 and there are questionable results with the tank volume used for the regular tanks making the results unreliable. EPA sent a second IRL on May 14, 2015 asking specifically if Respondent can confirm that no one was monitoring the five tanks during the period in guestion. The second IRL response dated July 13, 2015 states: "Based upon information available to us at this time, it appears that no one was checking the results of the EIM unit during the period of the construction." The response indicates the violation of 40 CFR § 280.41(a) from at least October 1, 2013 to November 17, 2013.

2. The EPA and the Respondent agree that settlement of this matter for a penalty of \$10,650 without further proceedings is in the public interest.

- 3. The EPA is authorized to enter into this Expedited Settlement Agreement and Final Order ("Agreement") pursuant to section 9006 of RCRA and 40 C.F.R. § 22.13(b) and § 22.18(b)(2).
- 4. In signing this Agreement, the Respondent: (1) admits that the Respondent is subject to requirements listed above in Paragraph 1, (2) admits that the EPA has jurisdiction over the Respondent and the Respondent's conduct as alleged herein, (3) neither admits nor denies the factual determinations contained herein, (4) consents to the assessment of this penalty, and (5) waives any right to contest the determinations contained herein.
- 5. By its signature below, the Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it has: (1) corrected the violations described above, (2) submitted true and accurate documentation of those corrections, (3) provided a deposit in the full amount of \$10,650 for payment of the civil penalty in Paragraph 2 above in accordance with the EPA penalty collection procedures provided to the Respondent, (4) submitted true and accurate proof of deposit for full payment of the civil penalty with this Agreement, and (5) agrees to release the deposit for full payment to the EPA upon entry of this Order.
- 6. Upon filing, this Expedited Settlement Agreement and Final Order shall constitute full settlement of the Respondent's civil liabilities under Section 9006 of RCRA for the violation(s) alleged in paragraph 1, above.
- 7. The EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by the Respondent of RCRA, any other federal statute or regulation, or for any violations alleged to have been corrected pursuant to this Agreement that were not corrected.
- 8. Upon signing and returning this Agreement to the EPA, the Respondent waives the opportunity for a hearing or appeal pursuant to Section 9006(b) of RCRA or 40 C.F.R. Part 22.
- 9. Each party shall bear its own costs and fees, if any.
- 10. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

IT IS SO AGREED,

RESPONDENT:

Name of individual signing (print):	SATYAPAL	PINGILE
Title: DFFICE MANAGER Bolla Operating Corp.		_
Signature: Audul	2	Date:

APPROVED BY EPA:

for Watten Make-Boy

Date _ 8/26/2016

Dore F. LaPosta, Director Division of Enforcement and Compliance Assistance

Bolla Operating Corp. Docket No. RCRA-02-2016-7707

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Expedited Settlement Agreement ("Agreement"). This Agreement, entered into by the parties to this matter, is hereby approved, incorporated herein, and issued as an Order pursuant to Section 9006 of the Act and 40 C.F.R. § 22.18(b)(3). The Effective Date of this Order shall be the date of its filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 2, New York, New York. 40 C.F.R. § 22.31(b).

BY: Hele Terrara

Helen Ferrara Regional Judicial Officer U.S. Environmental Protection Agency - Region 2 290 Broadway New York, New York 10007-1866

DATE: Scorenber 7, 2016

Bolla Operating Corp. Docket No, RCRA-02-2016-7707

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed Expedited Settlement Agreement and Final Order bearing docket number RCRA-02-2016-7707, in the following manner to the respective addressees listed below:

Original and Copy By Hand Delivery:

Copy by Certified Mail/ Return Receipt Requested: Office of the Regional Hearing Clerk U.S. Environmental Protection Agency, Region 2 290 Broadway, 16th Floor New York, NY 10007-1866

Harminder Singh, Chief Executive Officer Bolla Operating Corp. 809 Stewart Ave. Garden City, NY 11530

Dated: 09/12,2016

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