

**STATE OF WASHINGTON  
THURSTON COUNTY SUPERIOR COURT**

STATE OF WASHINGTON, acting  
through the Department of Ecology,

Plaintiff,

v.

GAGANDEEP BAINS and BAINS  
L.L.C.,

Defendants.

NO. 06-2-01225-6

SETTLEMENT AGREEMENT

Plaintiff, State of Washington, Department of Ecology (Ecology), represented by Rob McKenna, Attorney General and Andrea L. Clausen, Assistant Attorney General, and Defendants, Gagandeep Bains and Bains L.L.C. (Defendants), appearing pro se, hereby submit this Settlement Agreement (Agreement) to the Thurston County Superior Court as a full and final settlement of the above-referenced matter, and request that the Court dismiss the matter with prejudice.

**I. BACKGROUND**

1. On August 28, 2003, Ecology underground storage tank (UST) inspector, Christina Zerby, completed a compliance inspection of Flying B #1, a gas station, and found several violations of UST regulations. These violations included failure to meet UST upgrading requirements under WAC 173-360-310(2)(b); failure to operate and maintain corrosion protection properly under WAC 173-360-320(1), WAC 173-360-320(2)(a), and

SETTLEMENT AGREEMENT

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ATTORNEY GENERAL OF WASHINGTON  
Ecology Division  
PO Box 40117  
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1 WAC 173-360-320(3); and failure to conduct proper release detection for tanks and piping  
2 under WAC 173-360-345(6)(d), WAC 173-360-350(2)(a)(ii), and WAC 173-360-350(3)(a).

3 2. On October 7, 2003, Ecology issued Notice of Penalty Incurred and Due No.  
4 DE 03TCPCR-5793 (Penalty) to Defendants in the amount of \$87,100 for violations of the  
5 UST regulations described above.

6 3. An Application for Relief from Penalty was filed with Ecology on or about  
7 October 27, 2003.

8 4. On November 4, 2003, Ecology issued a Notice of Disposition Upon  
9 Application for Relief affirming the Penalty.

10 5. On December 3, 2003, an appeal of the Penalty was filed with the Pollution  
11 Control Hearings Board (PCHB).

12 6. On February 2, 2005, the Department of Ecology, by and through its attorney,  
13 Sharonne O'Shea, Assistant Attorney General, and Mr. Bains, an owner in Bains L.L.C.,  
14 entered into Stipulation and Agreed Order of Dismissal for PCHB case No. 03-161 (PCHB  
15 Settlement Agreement).

16 7. The Settlement Agreement was presented to the PCHB. Based on the  
17 Settlement Agreement, the PCHB dismissed No. 03-161 on February 22, 2005.

18 8. On June 30, 2006, Ecology commenced this action by filing a Summons and  
19 Complaint for Breach of Settlement Agreement and to Recover Unpaid Penalty (Complaint).

20 9. On July 17, 2006, Ecology served Gagandeep Bains with the Summons and  
21 Complaint.

22 10. On August 12, 2006, Ecology served Harinder Paul Singh Bains, as registered  
23 agent for Bains L.L.C., with the Summons and Complaint.

24 11. On September 18, 2006, Ecology filed Plaintiff's Motion for Default Against  
25 Defendants and Plaintiff's Motion for Default Judgment to Recover Unpaid Penalty.  
26

12. Ecology and Defendants have agreed to resolve this dispute through the settlement outlined below.

## II. SETTLEMENT AGREEMENT

The parties desire to resolve the dispute herein and avoid the cost and time associated with further litigation. The parties therefore stipulate and agree as follows:

### A. SCOPE

This Agreement constitutes the entire agreement between the parties to this appeal, and settles all issues raised by the Complaint. Ecology agrees to deem Penalty No. DE 03TCPCR-5793 and the PCHB Settlement Agreement satisfied upon Defendants' satisfactory and timely completion of its obligations under this Agreement. This Agreement applies only to Penalty No. DE 03TCPCR-5793 issued on October 7, 2003, and the PCHB Settlement Agreement, and does not in any way limit Ecology's authority to issue other penalties or enforcement actions against Defendants.

### B. RESOLUTION OF COMPLAINT

Ecology agrees to lower Defendants' obligation to pay \$9,000 under the PCHB Settlement Agreement to \$7,500 in recognition of Mr. Bains' completion of operator training, required under the PCHB Settlement Agreement. Defendants agree to the following payment plan in order to satisfy their remaining \$7,500 obligation.

#### 1. Monthly Payments

Defendants shall make 12 monthly payments in the amount of \$625. The payments shall be postmarked by the 30<sup>th</sup> of every month. Ecology must receive Defendants' first payment of \$625 within 30 calendar days of the date the Court dismisses this matter. If the 30<sup>th</sup> day falls on a holiday or weekend, payment shall be due on the next business day.

1           **2.     Method of Payments**

2       Defendants shall make all payments by check or money order payable to the  
3       Washington State Department of Ecology and make reference to Penalty No.  
4       DE 03 TCPCR-5793. Defendants shall send the payment to:

5               Department of Ecology  
6               Attn: Fiscal Cashiering Section  
7               P.O. Box 5128  
              Lacey, WA 98509-5128

8           If Defendants fail to make any scheduled monthly payment as specified in paragraph  
9   II.B.1. of this Agreement, the full amount of \$9,000 will become due and payable immediately  
10   without further right of administrative or judicial review, except as provided in paragraph II.C.  
11   of this Agreement.

12           **3.     Confession of Judgment**

13       Defendants agree to execute a Confession of Judgment. A copy of the original  
14   Confession of Judgment is attached to this Agreement as Attachment A. Ecology shall hold  
15   the original executed Confession of Judgment, in conformance with Chapter 4.60 RCW in the  
16   amount of \$9,000 pending the making of payments provided for in paragraph II.B.1. of this  
17   Agreement. In the event that any of the payments provided for in paragraph II.B.1. of the  
18   Agreement are not made within three calendar days from their due date (hereafter referred to as  
19   a Default), then Ecology shall be entitled to file the original Confession of Judgment with the  
20   Thurston County Superior Court and pursue collection on the same; provided however, that the  
21   Defendants shall be given credit for any sums previously paid pursuant to this Agreement. In  
22   the event of Default, the Confession of Judgment shall bear interest at the rate of 12 percent per  
23   annum. Further, in the event that the Defendants complete all payments provided for in  
24   paragraph II.B.1. of this Agreement, as agreed, without Default, then Ecology shall return the  
25   original Confession of Judgment described in this paragraph and in Attachment A to the  
26   Defendants.

1 **C. REMEDIES**

2 In the event that Defendants violate the terms of this Agreement, Ecology may pursue  
3 all remedies available by law. By entering into this Agreement, Defendants shall have waived  
4 their right of administrative or judicial review on the underlying merits of the Penalty and the  
5 PCHB Settlement and Defendants waive any defense they may have to the Confession of  
6 Judgment provided for in paragraph II.B.3. above. However, Defendants do not waive the  
7 right to contest whether violations of this Agreement have occurred. Ecology shall be entitled  
8 to recover its costs, including attorney fees, in any action brought to enforce this Agreement in  
9 which Ecology is a prevailing party, including filing of the executed Confession of Judgment  
10 provided for in paragraph II.B.3. above, in Thurston County Superior Court.

11 **D. VENUE**

12 Defendants agree that the venue for any judicial action to enforce this Agreement,  
13 including filing of the executed Confession of Judgment, and/or to collect the Penalty, or any  
14 portion thereof, shall be in Thurston County Superior Court.

15 **E. SERVICE**

16 In the event Ecology pursues any remedy in Thurston County Superior Court,  
17 Defendants agree to accept service of the summons and complaint by United States mail in lieu  
18 of personal service, at Ecology's option. Service by mail shall be deemed complete upon the  
19 third day following the day the summons and complaint are placed in the mail. The current  
20 address that Ecology has for Defendants is:

21 Gagandeep Bains  
22 205 -2<sup>nd</sup> North  
23 Okanogan, WA 98840

Harinder Paul Singh Bains  
Bains L.L.C.  
3373 S. 279 Place  
Auburn, WA 98001

24 Defendants agree to accept service at the above addresses unless Defendants inform Ecology in  
25 writing of any changes to the Defendants' addresses.  
26

1 **F. PRESS RELEASES AND OTHER DOCUMENTS**

2 Any document prepared by Defendants related to this settlement, such as a press  
3 release, shall be identified as resulting from a settlement with Ecology.

4 **G. TAX CREDIT DISALLOWED**

5 Defendants shall not deduct or credit against taxes due or payable any monies paid as  
6 cash payments under this Agreement, nor otherwise receive any tax benefits from payment of  
7 monies as cash payments under this Agreement.

8 **H. RELEASE OF LIABILITY**

9 Defendants and Defendants' heirs, assigns, or other successors in interest, agree to  
10 release and discharge Ecology and its officers, agents, employees, agencies and departments  
11 from any existing damages and causes of action of any nature arising out of the incidents that  
12 gave rise to this matter.

13 **I. PUBLIC COMMENT**

14 Ecology and the Defendants recognize this Agreement is subject to public comment  
15 under Ecology Policy 920 and the terms of the Agreement may change based on comments  
16 Ecology receives from the public.

17 **J. DISMISSAL**

18 The parties consent to the submission of this Agreement to the Court and request that,  
19 based upon a full and final settlement having been reached, the Court dismiss this case with  
20 prejudice. Both parties further agree to bear their own costs and attorneys' fees associated with  
21 this matter.

22 **K. EFFECTIVE DATE**

23 This Agreement shall become effective upon issuance of the Court's order dismissing  
24 this appeal.  
25  
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1 **L. SIGNATORIES AUTHORIZED**

2 The undersigned representatives for Ecology and Defendants certify that they are fully  
3 authorized by the party whom they represent to enter into the terms and conditions of this  
4 Agreement and to legally bind such party thereto.

5 **M. EXECUTION**

6 This document may be executed in counterparts and may be executed by facsimile, and  
7 each executed counterpart shall have the same force and effect as the original instrument.

8  
9 **STATE OF WASHINGTON**  
10 **DEPARTMENT OF ECOLOGY**

11  
12 Donald Abbott  
13 Section Manager  
14 Toxic Cleanup Program  
Underground Storage Tank Unit


15 Dated: \_\_\_\_\_

16 **ROB McKENNA**  
17 **Attorney General**

18  
19 Andrea L. Clausen, WSBA #35161  
20 Assistant Attorney General  
Attorneys for Plaintiff  
(360) 586-4616

21 Dated: \_\_\_\_\_  
22  
23  
24  
25  
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**BAINS L.L.C.**

  
Bains L.L.C. representative  
Appearing Pro Se

Dated: 10/12/06

**GAGANDEEP BAINS**

  
Gagandeep Bains  
Appearing Pro Se

Dated: 10-12-06

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☐ EXPEDITE  
☐ No Hearing is Set  
☒ Hearing is Set:  
Date: October 13, 2006  
Time: 9:00 a.m.  
Judge: Chris Wickham

STATE OF WASHINGTON  
THURSTON COUNTY SUPERIOR COURT

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

GAGANDEEP BAINS and BAINS,  
L.L.C.,

Defendants.

NO. 06-2-01225-6

CONFESSION OF JUDGMENT

(CLERK'S ACTION REQUIRED)

JUDGMENT SUMMARY

Pursuant to Chapter 4.64 RCW the following information is hereby provided:

- |  |   |
|--|---|
| 1. Judgment Creditor:  | State of Washington, Department of Ecology  |
| 2. Judgment Debtors:   | Gagandeep Bains<br>205 - 2 <sup>nd</sup> North<br>P.O. Box 1428<br>Okanogan, Washington 98840<br><br>Bains, L.L.C.<br>3733 S. 279 Place<br>Auburn, Washington 98001 |
| 3. Principal Judgment Amount:                                | \$9,000.00  |
| 4. Credit for Payments per terms<br>of Settlement Agreement: | \$ _____  |
| 5. Statutory Attorney's Fees:                                | \$ _____  |
| 6. Costs:  | \$ _____  |

CONFESSION OF JUDGMENT

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7. Principal Judgment shall bear interest at the rate of 12 percent per annum.

8. Attorney for Judgment Creditor:

Assistant Attorney General

CONFESSION OF JUDGMENT

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CONFESSION OF JUDGMENT

I, Gagandeep Bains, on behalf of myself, and HARINDER PAUL S. BAINS, on behalf of Bains L.L.C., jointly and individually, do hereby confess judgment in favor of the State of Washington Department of Ecology, the above-named Plaintiff, for the sum of \$9,000; and do hereby authorize the above-entitled Court to enter a Judgment on said sum (subject to the conditions and reservations set forth below) against us in favor of the Plaintiff.

This Confession of Judgment is for money justly due Plaintiff arising from the Parties Settlement Agreement executed on or about \_\_\_\_\_, 2006, for settlement of *Ecology v. Gagandeep Bains and Bains L.L.C.*, No. 06-2-01225-6, which was previously pending in Thurston County Superior Court and which was subsequently dismissed pursuant to the Settlement Agreement.

In the event that the Defendants make any interim payments on or before entry and/or filing of this Confession of Judgment, then the sum of such payment(s) shall be credited against the \$9,000 balance of the judgment by the Plaintiff.

Interest shall accrue on the unpaid portion of the sums due hereunder at an annual rate of 12 percent per annum, commencing on the earliest period of default pursuant to the Settlement Agreement referenced above.

Date this 12 day of October, 2006

Gagandeep Bains

Representative of Bains L.L.C.

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CONFESSION OF JUDGMENT

ACKNOWLEDGMENT

STATE OF WASHINGTON  
COUNTY OF Chambers

I, GAGANDEEP BAINS, individually, upon oath, depose and say: I have read the foregoing Confession of Judgment, know the contents thereof and acknowledge that such Confession of Judgment was voluntarily made.

[Signature]  
GAGANDEEP BAINS  
Defendant

I, [Signature], Notary Public in and for the State of Washington, residing at [Signature], do hereby certify that on this 12<sup>th</sup> day of October, 2006, personally appeared before me Gagandeep Bains, Defendant in the above-entitled Confession of Judgment, to be known to be the individual described in and who executed this instrument and acknowledge that he signed the same as his free and voluntary act and deed for the uses and purposes herein mentioned, and to assent to judgment confessed in accordance with Chapter 4.60 RCW.

GIVEN UNDER MY HAND and official seal this 12<sup>th</sup> day of October, 2006.



[Signature]  
Print Name: Kelly A. Townsend  
NOTARY PUBLIC in and for the  
State of Washington, residing at  
[Signature]  
Commission expires: 7-1-07

CONFESSION OF JUDGMENT

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WELLSFARGO REDONDO

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STATE OF WASHINGTON  
COUNTY OF KING

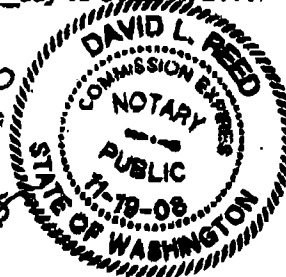
I, HARINDER PAUL SINGH BAINS, as a representative of Bains L.L.C., upon oath, depose and say: I am fully authorized by Bains L.L.C. to legally bind Bains L.L.C., I have read the foregoing Confession of Judgment, know the contents thereof and acknowledge that such Confession of Judgment was voluntarily made.

  
Bains L.L.C. Representative  
Defendant

I, DAVID L REED, Notary Public in and for the State of Washington, residing at Payette, WA, do hereby certify that on this 12<sup>th</sup> day of October, 2006, personally appeared before me Harinder Paul Singh Bains, a representative of Bains L.L.C. and Defendant in the above-entitled Confession of Judgment, to be known to be the individual described in and who executed this instrument and acknowledge that he signed the same as his free and voluntary act and deed for the uses and purposes herein mentioned, and to assent to judgment confessed in accordance with Chapter 4.60 RCW.

GIVEN UNDER MY HAND and official seal this 12<sup>th</sup> day of October, 2006.

  
Print Name: DAVID L REED  
NOTARY PUBLIC in and for the  
State of Washington, residing at  
Payette, WA  
Commission expires: 11/19/08



CONFESSION OF JUDGMENT

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3 **ORDER AND JUDGMENT**

4 THIS MATTER having come on before the Court based upon the foregoing Confession  
5 of Judgment and Acceptance thereof; and the Court having reviewed the same and having  
6 found them sufficient as is required by Chapter 4.60 RCW, it is now, therefore;

7 ORDERED, ADJUDGED AND DECREED that the State of Washington Department  
8 of Ecology shall have judgment against Defendants in the amount of \$9,000 with any credit for  
9 payments made pursuant to the Settlement Agreement.

10 IT IS FURTHER ORDERED that the principal judgment shall bear interest at the rate  
11 of 12 percent per annum until paid in full, and that Plaintiffs are entitled to costs and statutory  
12 attorney's fees.

13 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

14  
15  
16 **JUDGE/COURT COMMISSIONER**

17 Presented By:

18  
19 \_\_\_\_\_  
20 Assistant Attorney General  
21 Attorney for Department of Ecology  
22  
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CONFESSION OF JUDGMENT

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