

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of General Counsel, Region 4
1130 North Westcott Road, Schenectady, NY 12306-2014
P: (518) 357-2048 | F: (518) 357-2087
www.dec.ny.gov

CERTIFIED - RETURN RECEIPT REQUESTED
7013 1090 0002 3365 4677

July 21, 2015

David Engel, Esq.
Nolan and Heller, LLP
39 North Pearl Street, 3rd Floor
Albany, NY 12207

Re: Order of Consent
Adirondack Transit Lines, Inc.
48 Broadway
R4-2015-0715-87

Dear Mr. Engel:

Enclosed please find a copy of the fully executed Order on Consent referenced above.

This will also acknowledge receipt of \$3,750 the civil penalty pursuant to Paragraph I.

Sincerely,

Richard Ostrov / JO

Richard Ostrov
Regional Attorney
Region 4

Enclosure

ec: S. Crisafulli
R. Leone
A. Dzierwa
M. Barrie
M. Ellis

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the
Violations of Environmental
Conservation Law Article 17 by:

ORDER ON CONSENT

File No. R4-2015-0715-87

Adirondack Transit Lines, Inc.
499 Hurley Avenue
Hurley, New York 12443
Respondent

Jurisdiction

1. The New York State Department of Environmental Conservation (“DEC” or “Department”) is the State agency with jurisdiction over the environmental law and policy of the State pursuant to § 3-0301 of the Environmental Conservation Law (“ECL”). In particular, DEC is responsible for the protection of the water resources of the State, pursuant to ECL Article 17 and the rules and regulations promulgated there under. The United States Environmental Protection Agency (“EPA”) has approved the State of the New York’s State Pollution Discharge Elimination System (“SPDES”) to implement the Clean Water Act National Pollutant Discharge Elimination System (“NPDES”) permit program that includes the regulation of stormwater discharges from the disturbance on one acre of land or more.

Respondent

2. Respondent, Adirondack Transit Lines, Inc., 499 Hurley Avenue, Hurley, New York 12443 owns a passenger bus repair and storage facility at 48 Broadway, Albany, New York (facility).

SPDES Multi-Sector Stormwater Industrial Activity General Permit

3. DEC issued the SPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity, Permit No. GP-0-12-001 pursuant to ECL Article 17, Titles 7 and 8 and Article 70 effective October 1, 2012 (permit).

4. This permit is intended to provide SPDES Permit coverage to facilities with stormwater discharges to surface waters of the State from a point source or outlet that conduct industrial activities identified within 40 CFR Part 122.26(b) (14) (i) through (ix) and (xi), as well as other miscellaneous industrial activities designated by the Department on a case by case basis.

5. ECL § 17-0701(1) provides that: "It shall be unlawful for any person, until a written SPDES permit therefor has been granted by the commissioner, or by his designated representative, and unless such permit remains in full force and effect, to: a. Make or cause to make or use any outlet or point source for the discharge of sewage, industrial waste or other wastes or the effluent therefrom, into the waters of this state;"

Violations

6. Respondent has not submitted a Notice of Intent to be covered by the permit and has no coverage under the permit.

7. Respondent's stormwater discharges from its facility without a permit is a violation of ECL § 17-0701(1).

Civil Penalties

8. ECL Section 71-1929 provides for the following civil penalties: "A person who violates any of the provisions of, or who fails to perform any duty imposed by titles 1 through 11 inclusive and title 19 of article 17, or the rules, regulations, orders or determinations of the commissioner promulgated thereto or the terms of any permit issued there under, shall be liable to a penalty of not to exceed thirty-seven thousand five hundred dollars per day for each violation, and, in addition thereto, such person may be enjoined from continuing such Violation as hereinafter provided."

Waiver of Hearing

9. Respondent has affirmatively waived its right to notice and hearing in the manner provided by law, and has consented to the issuing and entering of this Order and agrees to be bound by the terms, provisions and conditions contained herein.

NOW, having considered this matter and being duly advised, it is ORDERED that:

I. In respect to the violations cited in this Order on Consent a civil penalty in the amount of THREE THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$3,750) is assessed against Respondent. Payment of the civil penalty by bank check made payable to the "Department of Environmental Conservation" is due with the return of the signed and notarized Order on Consent to the Department.

II. No change in this Order shall be made or become effective except as set forth by a written order of the Commissioner or the Commissioner's designee.

III. Respondent shall indemnify and hold harmless the Department, the State of New York, and their representatives and employees for all claims, suits, actions, damages and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by Respondent and its successors (including successors in title) and assigns.

IV. Upon completion of all obligations created in this Order including the Schedule of Compliance, this Order settles civil and administrative penalties concerning the violations identified herein against Respondent.

V. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating, or in any way affecting any of the civil, administrative, or criminal rights of the Department or of the Commissioner or his/her designee (including, but not limited to, nor exemplified by, the rights to recover natural resources damages and to exercise any summary abatement powers) or authorities with respect to any party, including Respondent.

VI. Respondent shall comply with the Schedule of Compliance that is incorporated into the Order on Consent and is enforceable there under.

VII. The effective date of this Order shall be the date it is signed by the Regional Director.

VIII. This Order shall terminate upon the occurrence of all the following actions: the state and federal issuance of all applicable permits, the effective date of the General Permit coverage of the site; and upon compliance with all the terms, conditions and provisions of this Order on Consent to be solely determined by the Department.

IX. Respondent shall allow duly authorized representatives of DEC access to the facility without prior notice, at such times as may be desirable or necessary in order for DEC to inspect and determine the status of Respondent's compliance with this Order, department regulations, the ECL and applicable federal regulations.

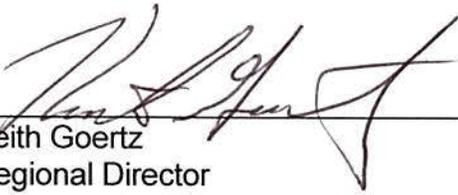
X. All correspondence to the Department shall be sent to: Region IV, DEC, 1130 North Westcott Road, Schenectady, New York 12306, Attention: Regional Water Engineer and emailed to andrea.dzierwa@dec.ny.gov.

All correspondence to the Respondent shall be sent to: David Engel, Esq. Nolan and Heller, LLP, 39 North Pearl Street, 3rd Floor, Albany, NY 12207
dengel@nolanandheller.com

DATED: July 20, 2015
Rotterdam, New York

Joseph Martens
Commissioner
New York State Department of Environmental
Conservation

BY:



Keith Goertz
Regional Director
Region 4

CONSENT BY RESPONDENT

Respondent hereby consents to the issuance and entry of the foregoing Order, waives its rights to a hearing herein as provided by law, and agrees to be bound by the provisions, terms and conditions contained herein.

BY: Eugene J. Berardi TITLE: Pres.
DATE: 7/16/15

STATE OF NEW YORK

) ss.:

COUNTY OF Ulster

On the 16 day of July 2015, before me, the undersigned,

personally appeared Eugene J. Berardi JR.
(Full name)

personally known to me who, being duly sworn, did depose and say that he/she/they reside at

673 Hurley Avenue; Hurley, NY 12443
(Full mailing address)

and that he/she/they is (are) the President

(President or other officer or director or attorney in fact duly appointed)

of the Adirondack Transit Lines, Inc.
(Full legal name of corporation)

The company described in and which executed the above instrument; and that he/she/they signed his/her/their name(s) thereto by the authority of the board of directors of said company.

Barbara L. Cook
Notary Public, State of New York

BARBARA L. COOK
NOTARY PUBLIC - STATE OF NEW YORK
NO. 01CO5044622
QUALIFIED IN ALBANY COUNTY
COMMISSION EXPIRES MAY 30, 2019

Schedule of Compliance

1) Within 60-days of the effective date of the Order, the Respondent shall submit a complete Notice of Intent with a compliant SWPPP pursuant to the MSGP or submit a certification in accordance with Part I Section G of the MSGP for a Conditional Exclusion for No Exposure.