

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

7015 0640 0000 6900 2802

March 22, 2016

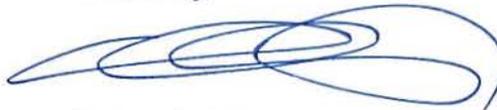
Adam & Amanda Bonci
P.O. Box 336
Grand Gorge, NY 12434

Re: Order of Consent
R4-2016-0224-10

Dear Mr. and Mrs. Bonci:

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

Sincerely,



Karen S. Lavery
Assistant Regional Attorney
Region 4

Enclosure

ec: M. Lanzafame
E. Pellegrini



Department of
Environmental
Conservation

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of
Violations of Article 19
of the Environmental
Conservation Law of the
the State of New York by:

-by-

Order on Consent
File No. R4-2016-0224-10

Adam and Amanda Bonci
P.O. Box 336
Grand Gorge, NY 12434

Respondents

WHEREAS:

JURISDICTION

1. Pursuant to Environmental Conservation Law ("ECL") Article 19, the Department of Environmental Conservation ("Department" or "DEC") is the State agency which has jurisdiction over the environmental law and policy of the State pursuant to, *inter alia*, §3-0301 of the ECL.
2. Pursuant to ECL Article 19, the New York State Department of Environmental Conservation has administrative jurisdiction to safeguard the air resources of the state from pollution.

RESPONDENT

3. Respondents, Adam and Amanda Bonci, own and occupy a residence at 36320 State Highway 23, Grand Gorge, New York ("residence").
4. Respondents own and operate an outdoor wood boiler ("OWB") at their residence.
5. Respondents are "persons" as defined at 6 NYCRR 200.1(bi).

APPLICABLE REGULATIONS

6. Regulations at 6 NYCRR §247.2(b)(10) define an outdoor wood boiler as “A fuel burning device that (a) is designed to burn combustion installation as: “A fuel burning device that (a) is designed to burn wood or other fuels; (b) is specified by the manufacturer for outdoor installation or installation in structures not normally occupied by humans; and (c) is used to heat building space and/or water via the distribution, typically through pipes, of a gas or liquid (e.g., water or water/antifreeze mixture) heated in the device.”

7. Regulations at 6 NYCRR §247.3(c)(3) provide that:
*“No person shall cause or allow emissions of air contaminants from an outdoor wood boiler to the outdoor atmosphere of a quantity, characteristic or duration which is injurious to human, plant or animal life or to property, or which unreasonably interferes with the comfortable enjoyment of life or property. This prohibition applies, but is not limited to, the following conditions:
(3) causing a visible plume migrating from an outdoor wood boiler and contacting a building on an adjacent property.”*

VIOLATION

8. On September 13 and 14, 2015 and November 2 and 3, 2015, a visible plume migrating from Respondents’ outdoor wood boiler made contact with a building on an adjacent property in violation of regulations at 6 NYCRR §247.3(c)(3).

CIVIL PENALTY

9. Section 71-2103 generally provides for a civil penalty of not less than \$375 and not more than \$18,000 for each violation of Article 19 or any code, rule or regulation which was promulgated thereto.

WAIVER OF HEARING

10. Respondents hereby affirmatively waive their right to a hearing in the manner provided by law, consent to the issuance and entry of this Order and agree to be bound by the terms, provisions, and conditions contained herein.

NOW, being duly advised and having considered this matter, IT IS HEREBY ORDERED THAT:

I. In respect of the aforesaid violations, a civil penalty in the amount of THREE THOUSAND DOLLARS (\$3,000) is assessed against the Respondents for the above violations. The civil penalty is suspended conditioned on Respondents’ compliance with the terms, conditions and provisions of this Order on Consent. Payment of the suspended penalty shall be due within fifteen (15) calendar days of the receipt by the Respondents of a notice of violation from the Department which sets out the violations of the Order. This provision shall not limit the Department’s right to seek other remedies provided by law and the applicable regulations for violations of this Order on Consent and ECL Article 19 and regulations, respectively.

- II. Respondents shall comply with the attached Schedule of Compliance.
- III. Pursuant to ECL Section 71-0301, the Commissioner specifically reserves the right to exercise summary abatement authority.
- IV. This Order is binding upon the Respondents, their agents, employees, successors, assigns and to all persons and firms, and corporations acting subordinate thereto.
- V. All communications to the Department except where otherwise specifically directed should be sent to:

New York State Department
of Environmental Conservation
Region 4 - Air Division Attn: RAPCE
1130 North Westcott Road
Schenectady, New York 12306
518-357-2350

- VI. No change or modification to this Order shall be made or be effective except as may be specifically set forth in writing by the Commissioner or Regional Director. Such application shall be made to the Regional Director.
- VII. For the purpose of insuring compliance with this Order, duly authorized representatives of this Department shall be permitted access to the location of the OWB in order to inspect to determine the status of Respondents' compliance with this Order.
- VIII. The effective date of this Order shall be the date upon which it is signed on behalf of the Department.
- IX. Respondents shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless 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 the provisions hereof by Respondents, their - employees, servants, agents, successors or assigns.
- X. Except as specifically provided in this Order, nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting:
- A. Any legal or equitable rights or claims, actions, proceedings, suits, causes of action or demands whatsoever that the State may have against Respondents for any other violations of the ECL, rules or regulations promulgated thereunder or permits issued thereunder;
- B. Any legal or equitable rights or claims, actions, proceedings, suits, causes of action or demands whatsoever that the State may have against anyone other than Respondents, their agents, servants, employees, successors and assigns;

C. Whatever right the Department has to bring any action or proceeding against Respondent and/or any of Respondents' employees, servants, agents, successors, and assigns with respect to claims for natural resource damages; and

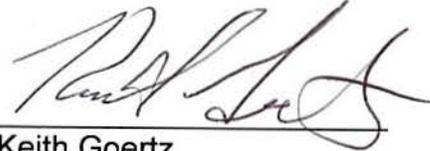
D. Respondents' right to assert all available defenses to any claims, actions, proceedings, suits, causes of actions or demands made or commenced by the State or the Department provided, however, that Respondents waive all legal or equitable rights claims, actions, proceedings, appeals, suits, causes of action, defenses or demands whatsoever that he may have to a judicial review of the validity and binding effect of this Order and whether or not this Order has been entered into voluntarily by Respondents.

XI. Compliance with the terms and conditions of this Order, including the Schedule of Compliance, shall be in full civil settlement of the violations in this Order.

DATED: *March 21*, 2016
Rotterdam, New York

Basil Seggos
Acting Commissioner
New York State Department of
Environmental Conservation

BY:



Keith Goertz
Regional Director
Region 4

STATE OF

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order, waives his right to notice and hearing herein and agrees to be bound by the provisions, terms and conditions contained herein.

Adam Bonci

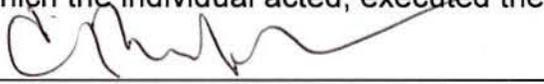
SIGNED: 

DATE: 3/12/16.

STATE OF NY)

COUNTY OF Delaware) ss.:

On the 12th day of March in the year 2016 before me, the undersigned, a Notary Public in and for the State, personally appeared Adam Bonci personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public
Qualified in the County of:
My Commission Expires:

C. BRADLEY WISE
Notary Public, State of New York
Delaware County No. 01AN5080747
Commission Expires 6-16-17

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order, waives her right to notice and hearing herein and agrees to be bound by the provisions, terms and conditions contained herein.

Amanda Bonci

SIGNED: Amanda Bonci

DATE: 3/12/16

STATE OF NY)

COUNTY OF Delaware) ss.:

On the 12th day of March in the year 2016 before me, the undersigned, a Notary Public in and for the State, personally appeared Amanda Bonci personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

[Signature]

Notary Public
Qualified in the County of:
My Commission Expires:

C. BRADLEY ANDERSON
Notary Public, State of New York
Delaware County No. 01AN6001747
Commission Expires 6-16-19

SCHEDULE OF COMPLIANCE

- 1) On or before May 31, 2016, Respondents shall permanently cease operations of their outdoor wood boiler, disassemble it, and submit proof to the Department of compliance with this requirement within 30 days of disassembly.
- 2) Upon disassembly of the outdoor wood boiler, Respondents shall not resell it within New York State.