

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 0005 8292 9815

July 11, 2016

Pierce Wagner
Buckeye Partners, L.P.
9999 Hamilton Blvd – TEK Park 5
Breinigsville, PA 18031

Re: Order on Consent
R4-2016-0510-96

Dear Mr. Wagner:

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

This will also acknowledge receipt of \$30,000 the civil penalty pursuant to Paragraph I.

Sincerely,



Karen S. Lavery
Assistant Regional Attorney
Region 4

Enclosure

ec: D. Welsted



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. R4-2016-0510-96

Buckeye Albany Terminal LLC
301 Normanskill Street
Albany, NY 12202

Respondent

WHEREAS:

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 and has been responsible for the protection of air resources of the State pursuant to ECL Article 19 and the rules and regulations promulgated there under.
2. Respondent, Buckeye Albany Terminal LLC, owns and operates refined petroleum products storage and truck loading terminals, with a facility located at 301 Normanskill Street, Albany ("facility").
3. Respondent operates pursuant to an Air Permit ID No. 4-0101-00070/02003.
4. On March 17, 2016, Department staff inspected the site.

First Violation

5. Department regulations at 6 NYCRR 200.10 incorporate by reference the federal NSPS regulatory standards in 40 CFR Subpart Kb

6. Regulations at 40 CFR 60.112b (a)(1)(i), Subpart Kb require that the internal floating roof shall be floating on the liquid surface at all times, except during initial fill and during those intervals when the storage vessel is completely emptied or subsequently emptied and refilled. When the roof is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be accomplished as rapidly as possible and this requirement is reflected in permit condition 1-34.

7. Department staff determined that Ethanol was put into Tank 37 without floating an internal floating roof ("IFR"). A total of approximately 1,200 barrels of ethanol was flushed into Tank 37.

8. Respondent's failure to fill Tank 37 as rapidly as possible is a violation of permit condition 1-34.

Second Violation

9. Regulations at 40 CFR 60.115b (a)(4), Subpart Kb require that after each inspection required by §60.113b(a)(3) that finds holes or tears in the seal or seal fabric, or defects in the internal floating roof, or other control equipment defects listed in §60.113b(a)(3)(ii), a report shall be furnished to the Administrator within 30 days of the inspection. The report shall identify the storage vessel and the reason it did not meet the specifications of §61.112b(a)(1) or §60.113b(a)(3) and list each repair made, and this requirement is reflected in permit condition 1-36.

10. Department staff determined that product was noted on the internal floating roofs for tanks 31, 32 and 33 during hatch inspections on June 4, 2015. The product was removed within 10 days of discovery. The report was not submitted within the 30 day requirement.

11. The failure to submit notification within the 30 day requirement is a violation of permit condition 1-36.

CIVIL PENALTY

12. 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

13. Respondent hereby affirmatively waives its 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. With respect of the aforesaid violations, a civil penalty in the amount of THIRTY THOUSAND DOLLARS (\$30,000) is assessed against the Respondent for the above violations. The penalty is due with the return of the signed and notarized Order made payable to the Department of Environmental Conservation by bank check.

II. Pursuant to ECL Section 71-0301, the Commissioner specifically reserves the right to exercise summary abatement authority.

III. This Order is binding upon the Respondent, its agents, employees, successors, assigns and to all persons and firms, and corporations acting subordinate thereto.

IV. 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

V. 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.

VI. For the purpose of insuring compliance with this Order, duly authorized representatives of this Department shall be permitted access to the site in question in order to inspect as may be deemed necessary to determine the status of Respondent's compliance herewith.

VII. The effective date of this Order shall be the date upon which it is signed on behalf of the Department.

VIII. Respondent shall indemnify and hold the Department, the State of New York, and its 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 Respondent, its - employees, servants, agents, successors or assigns.

IX. 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 Respondent 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 Respondent, its agents, servants, employees, successors and assigns;

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

D. Respondent's 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 Respondent waives all legal or equitable rights claims, actions, proceedings, appeals, suits, causes of action, defenses or demands whatsoever that it 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 Respondent.

X. Compliance with the terms and conditions of this Order shall be in full civil settlement of the violations in this Order.

DATED: July 6, 2016
Rotterdam, New York

Basil Seggos
Commissioner
New York State Department of
Environmental Conservation

BY:



Keith Goertz
Regional Director
Region 4

CONSENT BY RESPONDENT

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

Buckeye Albany Terminal LLC

SIGNED: Christopher Redden
ASSISTANT
TITLE: OPERATIONS MANAGER
DATE: 6/29/16

STATE OF New York

COUNTY OF Rensselaer ss.:

On the 29 day of June in the year 2016 before me, the undersigned, a Notary Public in and for the State, personally appeared Christopher Redden 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.

Antonette L. Murphy
Notary Public
Qualified in the County of: Rensselaer
My Commission Expires: March 4, 2018

ANTONETTE L. MURPHY
Notary Public, State of New York
No. 01MU5056576
Qualified in Rensselaer County
My Commission Expires March 4, 2018