

New York State Department of Environmental Conservation

Office of General Counsel, Region 4

1130 North Westcott Road, Schenectady, New York 12306-2014

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Website: www.dec.ny.gov



CERTIFIED - RETURN RECEIPT REQUESTED

7011 1570 0003 0363 4410

June 3, 2013

Michael Evereth
Murphy Rubbish Inc.
30 Over Look St.
Slingerlands, New York 12159

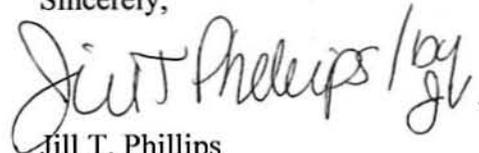
Re: Modification Order on Consent
R4-2012-1004-88M

Dear Mr. Evereth:

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

This will also acknowledge receipt of \$7500 the civil penalty pursuant to Paragraph I.

Sincerely,



Jill T. Phillips
Assistant Regional Attorney
Region 4

Enclosure

cc: T. Robak
ECO Swan

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Violations of
Article 27 of the Environmental
Conservation Law and Title 6
of the Official Compilation
of Codes, Rules and Regulations
of the State of New York

**MODIFICATION OF
ORDER ON CONSENT**

DEC File No.:
R4-2012-1004-88M

-By-

Murphy Rubbish, Inc.

Respondent

WHEREAS:

Jurisdiction

1. The New York State Department of Environmental Conservation (“DEC” or “the Department”) is the State agency with jurisdiction over the environmental law and policy of the State pursuant to, inter alia, §3-0301 of the Environmental Conservation Law (“ECL”). In particular, DEC regulates the operation of solid waste management facilities, pursuant to ECL §7-0701 et seq. and the rules and regulations promulgated thereunder at Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR), Part 360 et seq.
2. Respondent is subject to Order on Consent R4-2012-1004-88 (effective October 23, 2012) (“Order”), which contains a Schedule of Compliance.
3. The Order’s Schedule of Compliance required Respondent, within 30 days of the effective date of the Order, to remove and legally dispose of the waste at the site, including the roll-offs, to comply with the permit limits and submit receipts to the Department for proof of legal disposal. The 30th day ran on November 22, 2012.

Violations

4. On or about April 2013, Department staff conducted a review of its records and determined that Respondent had failed to comply with the Order’s Schedule of Compliance; Respondent failed to remove the excess waste at the site and submit receipts to the Department for proof of legal disposal by November 22, 2012.
5. Respondent’s failure to remove the excess waste at the site and submit receipts to the Department for proof of legal disposal by November 22, 2012 is a violation of Order on Consent R4-2012-1004-88.
6. On April 26, 2013, Department staff conducted an inspection of the site and observed that Respondent had approximately 2,250 tons of solid waste on the ground in the sorting area.

7. Respondent's storage of solid waste in excess of its permit limit of 240 tons in the sorting area is a violation of Special Condition #10 of its Solid Waste Management Permit and 6 NYCRR 360-1.7(a)(1)(ii).

Civil Penalty

8. ECL 71-2703(1) provides that "any person who violates any provision of Article 27 of the ECL or any rule or regulation promulgated thereunder shall be liable for a civil penalty not to exceed seven thousand five hundred dollars (\$7,500) for a first violation and one thousand five hundred dollars (\$1,500) for each day the violation continues."

Waiver of Hearing

9. Respondent has affirmatively waived its right to a hearing in the manner provided by law and has consented to the issuing of this Modification and has agreed 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 of the aforesaid violations, a civil penalty in the amount of SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500) is hereby assessed against the Respondent. Payment of the civil penalty is due upon the return of a signed and notarized copy of this Order to the Department. The civil penalty shall be paid by certified or bank check made payable to the NYS DEC.

II. Respondent shall comply with the Modification's Schedule of Compliance which is incorporated and made part of the terms, provisions, and conditions of this Modification and which supersedes the Order's Schedule of Compliance.

III. The effective date of this Modification shall be the date it is signed by the Department.

IV. All terms, provisions, and conditions of the Order remain in effect unless expressly modified in this Modification.

DATED: 6/3, 2013
Rotterdam, NY

Joseph J. Martens
Commissioner
New York State Department of
Environmental Conservation

BY: Eugene J. Kelly
Eugene J. Kelly
Regional Director
Region 4

CONSENT BY RESPONDENT

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

Murphy Rubbish, Inc.

SIGNED: [Signature]

TITLE: President

DATE: 5-30-13

STATE OF NEW YORK)
) ss.:
COUNTY OF ALBANY)

On the 30th day of MAY in the year 2013, before me, the undersigned,

personally appeared MICHAEL E. EVERETT
(Full name)

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

30 OVERLOOK ST, Slingerlands NY 12159
(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 MURPHY RUBBISH, INC.
(Full legal name of corporation)

the corporation 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 corporation.

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

ANTHONY V. CARDONA, JR.
Notary Public, State of New York
No. 02CA5008245
Qualified in Albany County 2015
Commission Expires May 24, 2015

Schedule of Compliance

1. Within 60 days of the effective date of this Order, Respondent shall remove and legally dispose of all solid waste at the facility in excess of its permit limits and shall submit to the Department photographs documenting the removal of such waste, along with receipts proving its legal disposal.