

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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Joe Martens
Commissioner

CERTIFIED - RETURN RECEIPT REQUESTED

7011 1570 0003 0363 3741

November 13, 2013

John Torino
Provincial Contractor Services, LLC
1572 Columbia Turnpike
Castleton, New York 12033

Re: Order of Consent
R4-2013-1011-125

Dear Mr. Torino:

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

This will also acknowledge receipt of \$1000 the civil penalty pursuant to Paragraph I.

Sincerely,

Richard Ostrov
Regional Attorney
Region 4

Enclosure

cc: N. Channing, BECI
T. Robak

In the Matter of the
Violations of Article 27
of the Environmental
Conservation Law by:

ORDER ON
CONSENT

File No.
R4-2013-1011-125

Provincial Contractor Services, LLC
1572 Columbia Turnpike
Castleton, New York 12033

Respondent

WHEREAS:

1. The Department of Environmental Conservation ("Department") is empowered to protect the environment from mishandling and mismanagement of all regulated waste transported from the site of generation to the site of ultimate treatment, storage or disposal pursuant to regulations promulgated at 6 NYCRR 364 under the authority of Article 27 of the Environmental Conservation Law ("ECL").
2. Respondent, Provincial Contractor Services, is a domestic limited liability company that transports solid waste.
3. On October 8, 2013, Department staff observed that Respondent had collected construction and demolition ("C&D") materials containing asbestos in a trailer marked with company number 815 and a New York State license plate of BE11142 from a building demolition at 160 Sherman Avenue, Albany, New York. The license plate was issued to the Respondent. The waste was in the process of being collected for disposal at the City of Albany landfill which is permitted to accept C&D waste containing asbestos.
4. Regulations at 6 NYCRR 364.2(a)(1) provides that "No person shall, except pursuant to and in accordance with a valid permit issued pursuant to this Part: (1) Collect or remove any regulated waste from its point of origin, generation or occurrence;
5. C&D containing friable asbestos is a commercial waste, and therefore a regulated waste as defined at 6 NYCRR 364.1(d)(2).

6. Department staff reviewed its official 6 NYCRR Part 364 permit records and found that Respondent didn't possess a 6 NYCRR 364 permit.

7. Respondent's collection of regulated waste from its point of origin or generation without a 6 NYCRR Part 364 permit is a violation of 6 NYCRR 364.1(d)(1).

8. Respondent upon notice of the violation from Department staff obtained a Part 364 permit.

9. ECL Section 71-2703(1) generally provides for a maximum civil penalty of \$7,500 for the initial day of violation of Title 3 of Article 27 and regulations, permits and orders issued there under and a maximum of \$1,500 per day for each day thereafter...and, in addition thereto, such person may by similar process be enjoined from continuing such violation and any permit or certificate issued to such person may be revoked or suspended or a pending renewal application denied.

10. 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. With respect to the aforesaid violation, a civil penalty in the amount of ONE THOUSAND DOLLARS (\$1,000) is hereby assessed against the Respondent. The civil penalty shall be paid by bank check made payable to the New York State Department of Environmental Conservation and returned to the Department with the signed and notarized Order on Consent.

II. This Order settles the administrative and civil violation described herein.

III. The provisions of this Order shall be deemed to bind Respondent, its agents, employees, and all persons, firms, corporations acting under or for it.

IV. (a) Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting (1) any legal, administrative or equitable rights or claims, actions, suits, causes of action or demands whatsoever that the Department may have against anyone other than Respondent; (2) the Department's right to commence any action or proceeding relating to or arising out of any disposal of hazardous wastes at the site or from areas in the vicinity of the facility, as those wastes are defined by applicable regulation; (3) The Department and/or State's right to bring a natural resources damage action; and or (4) the Respondent's right to challenge any such action by the Department, whether by administrative hearing or otherwise, to the extent otherwise permitted by law.

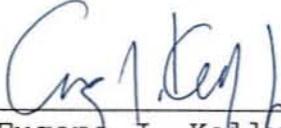
(b) This Order shall not be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

V. The effective date of this Order shall be the date it is executed by the Regional Director.

DATED: Rotterdam, New York
November 12,
October 2013

Joseph Martens
Commissioner
New York State Department of
Environmental Conservation

BY:



Eugene J. Kelly, Jr.
Regional Director
Region IV

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.

BY: JOHN TIRINO

TITLE: PM

DATE: 11/7/13

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

On the 7 day of Nov, 2013 in the year 2013, before me, the undersigned,

personally appeared John Tirino,
(Full name)

personally known to me who, being duly sworn, did depose and say that he/she/they reside at
157a Columbia Terpk Castlekn NY. 12033
(Full mailing address)

and that he/she/they is (are) the John Tirino
(President or other officer or director or attorney in fact duly appointed)

of the Provincial Contractor Services
(Full legal name of company)

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.

Linda Kennedy
Notary Public, State of New York

LINDA M. KENNEDY
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN RENSSELAER COUNTY
REG. #01KE6187754
MY COMM. EXP. MAY 27, 2016