

New York State Department of Environmental Conservation

Office of General Counsel, Region 4

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

Phone: (518) 357-2048 • Fax: (518) 357-2087

Website: www.dec.ny.gov



Joe Martens
Commissioner

CERTIFIED - RETURN RECEIPT REQUESTED

7013 1090 0002 3365 0976

June 30, 2014

James Ryan
Selkirk Cogen Partners LP
24 Power Park Drive
Selkirk, NY 12158

Re: Order of Consent
R4-2014-0522-120

Dear Mr. Ryan:

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

This will also acknowledge receipt of \$7,000 the civil penalty pursuant to Paragraph I.

Sincerely,



Richard Ostrov
Regional Attorney
Region 4

Enclosure

cc: F. Riedy

STATE OF NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Violations of Article 19
of the Environmental
Conservation Law of the State of
New York and Title 6 of the Official
Compilation of the Codes, Rules and
Regulations of the State of New York

DEC CASE NO.
R4-2014-0522-120

ORDER ON CONSENT

SELKIRK COGEN PARTNERS LP
24 POWER PARK DRIVE
SELKIRK, NEW YORK 12158

Respondent.

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, Selkirk Cogen Partners, LP, is a limited partnership that owns and operates a cogeneration power facility in Selkirk, New York (“facility”).
3. Respondent operates the facility pursuant to a 6 NYCRR Part 201-6 Title V permit (#4-0122-00007/00719 that contains general and special conditions (“permit”). The special conditions are listed as Items.
4. On Respondent submitted to the Department an emissions exceedance report for a violation each of the NOx hourly and pounds per hour limits that occurred on April 28, 2014 for emission source 0GT23 as provided in Item 215 of the permit.
5. On May 9, 2014, the Department sent Respondent a Notice of Violation for the emission violations reported for April 28, 2014.
6. Regulations at 6 NYCRR 201-6.5(a) (2) provides that: “The permittee must comply with all conditions of the Title V facility permit. Any permit non-compliance constitutes a violation of the act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application”.
7. Regulations at 6 NYCRR 201.6.5(a) (5) provides that: “ It is not a defense for an owner and/or operator in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit”.

Violation

8. Respondent violated Permit Special Condition 215 6 NYCRR 201-6.5(a)(2) by exceeding the NOx hourly and pounds per hour limits on April 28, 2014 for emission source OGT23 as provided in Special Condition 215 of the permit.

Civil Penalties

9. ECL Section 71-2103 provides that any person who violates any provision of article nineteen or any code, rule or regulation which was promulgated pursuant thereto; or any order except an order directing such person to pay a penalty by a specified date issued by the commissioner pursuant thereto, shall be liable, in the case of a first violation, for a penalty not less than five hundred dollars nor more than eighteen thousand dollars for said violation. ... In addition thereto, such person may be enjoined from continuing such violation as hereinafter provided.

WAIVER OF HEARING

10. Respondent has affirmatively waived the 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 therein.

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

I. Civil Penalty

Respondent is hereby assessed a civil penalty in the amount of SEVEN THOUSAND DOLLARS (\$7,000). The civil penalty shall be paid to the Department of Environmental Conservation by certified check with the return of the signed and notarized Order.

II. Access

Respondent shall allow duly authorized representatives of DEC access to the facility referred to in this Order 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 or the ECL. The Department monitor shall have, at his discretion, full and unrestricted access to Respondent's records, and employees to discuss or inquire about all state, federal and Order on Consent compliance matters, and complaints.

III. Summary Abatement

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.

IV. Indemnification

Respondent shall indemnify and hold DEC, New York State, and their representatives and employees harmless for all claims, suits, 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 directors, officers, employees, servants, agents, successors or assigns.

V. Entire Agreement; Modification

This Order constitutes the entire agreement of the parties, and no provision of the agreement shall be deemed waived or otherwise modified except as is specifically set forth in a writing executed by the Commissioner or Regional Director of DEC indicating intent to modify this Order.

VI. Effective Date

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

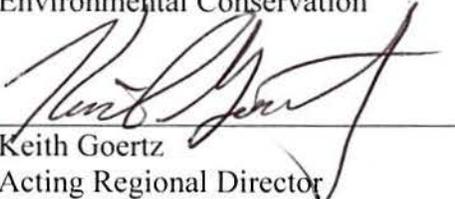
VII. Compliance Actions

Within 30 days of the effective date of this Order on Consent, Respondent shall submit a report that identifies the cause(s) of the violations and the actions taken to prevent any further violations based on those cause(s). The failure to comply with this Paragraph shall be a violation of this Order.

DATED: Rotterdam, New York
June 30 2014

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

BY:


Keith Goertz
Acting Regional Director
Region 4

