

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the
Violations of the Environmental
Conservation Law ("ECL") Article 17

**MODIFICATION OF
ORDER ON CONSENT**

-by-

File No. R4-2008-0128-18
MOSF #4-2100

State University of New York
Service Building
Oneonta, NY 13820

Respondent

WHEREAS:

1. Pursuant to Environmental Conservation Law ("ECL") Article 17, the Department of Environmental Conservation ("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 Environmental Conservation Law. In particular, DEC regulates the discharge from point sources, as that term is defined at 6 NYCRR §750.2 (a) (20), pursuant to ECL §17-0101 *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 750 *et seq.*

2. The Department also has jurisdiction in matters concerning the handling and storage of petroleum and certification of onshore major facilities pursuant to § 17-0303 of the ECL, Article 12 of the Navigation Law and Parts 610 and 613 of 6 NYCRR.

3. Respondent, State University of New York, owns and operates a major oil storage facility ("MOSF") (license #4-2100) at which is also subject to petroleum bulk storage ("PBS") regulations ("facility"), known as SUNY Oneonta. Respondent is subject to Order on Consent ("Order")(effective date, February 28, 2008).

4. Paragraph 8 of the original Order's Schedule of Compliance required: "Respondent shall commence implementation of the approved engineering plan in order to complete construction on or before August 1, 2008."

5. On July 24, 2008, the Department received a written request from Respondent to extend the closure date through the end of 2009. The Respondent set forth good cause for the request for the extension.

6. Respondent has affirmatively waived its right to notice and hearing in the manner provided by law, and has consented to the issuance and entry of this Modification, and agrees to be bound by the terms, provisions and conditions contained therein.

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

I. No terms, conditions or provisions of the Order and the Modification are modified unless expressly provided herein.

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

III. The Modification's Schedule of Compliance supercedes the Order's Schedule of Compliance.

IV. This Modification shall terminate upon Respondent's compliance with the terms of the Order, and Modification and Modification's Schedule of Compliance.

DATED: _____, 2008
Rotterdam, New York

Commissioner
New York State Department of
Environmental Conservation

BY:

Eugene J. Kelly
Regional Director
Region 4

SCHEDULE OF COMPLIANCE

MOSF Corrective Actions:

1. Respondent shall implement the approved schedule in the Work Plan developed by Earth Tech, which has been approved by the Department. The final Secondary Containment System evaluation shall be submitted by August 1, 2008. If repairs or upgrades are required, such will be completed by December 31, 2009.
2. Within 30 days of the effective date of this Order, Respondent shall submit to the Department, the last 3 months of properly reconciled inventory records, records of monitoring the interstitial spaces, and proof that the tank labels have been placed on the fill ports.
3. Within 30 days of the effective date of this Order, Respondent shall submit to the Department, photos and documentation to certify that the fill ports have been color coded, the tanks have level gauges, the tanks are properly labeled, and the facility operator is conducting monthly inspections and maintaining records of those inspections.
4. By the 5th of each month, Respondent shall submit to the Department, inventory and leak detection records for the previous month. This shall be required until 6 months after the effective date of this Order.

Oil Spill Corrective Actions:

5. Within 30 days of the effective date of the Order, Respondent shall hire a Professional Engineer to investigate water quality violations.
6. Within 45 days of the effective date of the Order, Respondent's consultant shall submit to the Department, a Work Plan to investigate waste water point source discharges which would have required a SPDES permit. Consultant shall immediately implement the Work Plan to the extent possible. Modifications to the Work Plan may be required based on Departmental review comments.
7. Within 90 days of the effective date of the Order, Respondent's consultant shall submit to the Department, an approvable engineering report (ER) to the Department for review. It shall include a corrective action plan with a schedule for completion of each significant remedial action to bring this facility into compliance with Article 17 of the ECL.
 - a. The Engineering Report shall locate and identify points of illegal wastewater discharges from garages, maintenance shops or boiler rooms (e.g., floor drains where petroleum, chemicals or other wastes which may cause or might reasonably be expected to cause pollution of the waters of the state may be discharged).

b. Example recommended remedial actions include but are not limited to: if any sanitary and storm sewer cross connections exist, they shall be separated and properly redirected. Temporary drain plugs shall be replaced with permanent closure when the USEPA approves such measure. Pipes connected to the subject floor drains shall be removed where practical or permanently plugged. The ER shall discuss allowable methods for spill containment, dry clean-up and disposal of future spilled wastes for employee training and compliance. As-built plans shall be provided for the owner, the City or Town and this Department.

c. Industrial wastewater treatment units, such as oil / water separators, may discharge to the City of Oneonta sewer system by prior authorization of the SPDES permittee. In cases of existing but unpermitted industrial SPDES discharges, the engineer should provide appropriate plans and file for any applicable SPDES permits through the Division of Environmental Permits in Stamford, NY.

d. Illegal discharges which drain to underground disposal or leak so as to contaminate soil and/or groundwater shall be reported to the USEPA for potential clean up under the jurisdiction of the Underground Injection Control program.

e. Soil and groundwater contamination should be evaluated by appropriate soil cleanup and water quality objectives (e.g., TAGM 4046, 8021, 8270 and 8260 volatiles.) Soil testing for the suspected presence of these compounds should utilize Method 8260 + 10 Tentatively Identified Compounds (TICs) for the volatiles and Method 8270 + 20 TICs for the semi volatiles. The laboratory will report the 10 highest (for volatiles) and 20 highest (for semi volatiles) tentatively identified compounds as well as their estimated levels contained in the sample.

f. The TIC results must then be added and compared to the appropriate TAGM 4046 soil general criteria: 10 ppm for total volatiles and 500 ppm for total semi volatiles. The project manager for your site takes into consideration remaining routes of exposure, groundwater contamination, and difficulty of additional soil removal and uses professional judgement to determine the site cleanup objectives.

8. Respondent shall commence implementation of the approved engineering plan in accordance with the engineering report dated June 25, 2008 and response letter dated July 24, 2008, in order to complete construction by December 31, 2009. Respondent shall submit to the Department, quarterly progress reports beginning January 15, 2009 for the last quarter of 2008.

9. Within 10 days of completing the requirements in the approved engineering plan, Respondent shall submit to the Department, a certification that all work has been completed in accordance with the approved engineering plan.

10. To allow for Department review and processing, all submittals to the Department shall be clearly identified with the owner's name, facility name and address, contact name and telephone number, and the MOSF License identification number.