

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of
Violations of Environmental Conservation Law,
Article 19

ORDER ON CONSENT
File No. R4-2009-0409-62

- by -

Technical Welding Fabricators, LLC
27 Thatcher St
Albany, NY 12207

Respondent

WHEREAS:

1. New York State Department of Environmental Conservation ("Department") has administrative jurisdiction to safeguard the air resources of the State pursuant to ECL Article 19.
2. Respondent, Technical Welding Fabricators, LLC, is located at 27 Thatcher Street in Albany, New York ("facility").
3. Respondent is a person as defined in ECL §33-0101 (33).
4. Respondent operates an indoor wood boiler ("IWB") which he uses as a supplemental heat source for the building.
5. Department staff inspected the facility on March 11, 2009 ("inspection").
6. The facility was utilizing pallets and medium density fiberboard as fuel for its IWB.
7. Regulations at 6 NYCRR 201-1.2 (a) require facilities which emit air contaminants to obtain a permit.
8. Department staff reviewed their records and discovered that Respondent did not have a valid permit for its emissions.
9. Respondent violated 6 NYCRR 201-1.2 (a) by failing to have a permit for its non-exempt emissions.

10. Regulations at 6 NYCRR 211-2 provide that *“No person shall cause or allow emissions of air contaminants to the outdoor atmosphere of such quantity, characteristic or duration which are injurious to human, plant or animal life or to property, or which unreasonably interfere with the comfortable enjoyment of life or property. Notwithstanding the existence of specific air quality standards or emission limits, this prohibition applies, but is not limited to, any particulate, fume, gas, mist, odor, smoke, vapor, pollen, toxic or deleterious emission, either alone or in combination with others.”*

11. Respondent’s burning of the medium density fiberboard in the IWB created toxins which were released into the atmosphere.

12. Respondent’s release of toxins into the atmosphere is a violation of regulations at 6 NYCRR 211-2.

13. Respondent has affirmatively waived their 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 of the aforesaid violations, a civil penalty in the amount of FIVE HUNDRED DOLLARS (\$500) is assessed against the Respondent for the above violations which shall be payable to the New York State Department of Environmental Conservation by money order, or certified check at the time this Order is signed, notarized and returned to the Department.

Payment of the above penalties shall not in any way alter Respondent’s obligation to complete performance under the terms of this Order.

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, their agents, employees, successors, assigns and to all persons and firms, and corporations acting subordinate thereto.

IV. 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.

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

VI. Respondent shall indemnify and hold the Department, the State of New York, and their 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, their employees, their servants, their agents, their successors or their assigns.

VII. 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, their agents, their servants, their employees, their successors and their 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.

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

DATED: _____, 2009
Rotterdam, New York

Commissioner Alexander B. Grannis
New York State Department of
Environmental Conservation

BY:

Eugene J. Kelly
Regional Director
Region 4

