

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Proposed Department-
Initiated Modification of the State Pollutant
Discharge Elimination System (SPDES) Permit
(SPDES Permit NY 0006629) Issued Pursuant to
Article 17 of the Environmental Conservation
Law (ECL) and Part 750 of Title 6 of the Official
Compilation of Codes, Rules and Regulations of
the State of New York (6 NYCRR),

**ORDER OF
DISPOSITION**

DEC Application No.
3-5518-00214/00003

- to -

AMERICAN SUGAR REFINING, INC.,

Permittee.

PROCEEDINGS

American Sugar Refining, Inc. (permittee), operates a sugar refinery along the Hudson River in Yonkers, New York. In accordance with SPDES permit NY 0006629, the refinery discharges non-contact cooling water to the Hudson River. Staff of the New York State Department of Environmental Conservation (Department or DEC) initiated this permit modification proceeding (Department-initiated modification or DIM), pursuant to 6 NYCRR 750-1.18 and 750-1.19, to modify certain terms of the permit. The permit modifications proposed by staff included the following: (i) adding biological requirements (a fish entrainment study); (ii) adding stormwater outfalls; (iii) including short-term high intensity monitoring for chemical oxygen demand, total suspended solids (TSS), and ammonia for the stormwater outfalls; (iv) changing monitoring requirements for the main outfall from TSS monitoring to monitoring of the net increase of TSS; and (v) adding a Best Management Practices Plan requirement. The permittee opposed the DIM and requested a hearing. The matter was referred to this office in August 2011.

After preliminary discussions regarding the hearing were held, the parties requested time to resolve the disputed issues without resort to adjudication. By email dated May 4, 2012, counsel for Department staff advised that the parties had resolved all issues in dispute and had reached agreement on the terms and conditions of the permit. Staff also provided a copy of the draft permit and an industrial fact sheet containing information on the permittee's refinery operation and the draft permit. In response to my inquiry, counsel for the permittee advised that he anticipated his client would provide confirmation of its assent to the agreement on or before May 18, 2012. By email dated May 17, 2012, I received confirmation of the agreement from permittee's counsel.

In accordance with DEC Organization and Delegation Memorandum 94-13 (Effect of Stipulations on Decision-Making in Permit and Enforcement Hearings, May 5, 1994), an agreement between all parties to a permit proceeding resolving all issues in dispute eliminates the need for the permit hearing. The parties have advised this office in writing that all issues in dispute have been resolved and staff has provided a copy of the terms and conditions of the draft permit.

ORDER OF DISPOSITION

The parties have resolved all outstanding issues in dispute concerning the Department-initiated modification of the subject permit. Accordingly, there are no issues for adjudication and no further proceedings before this office are required. The matter is remanded to Department staff to issue a permit and the hearing record in this matter is closed.

_____/s/_____
Richard A. Sherman
Administrative Law Judge

Dated: May 18, 2012
Albany, New York