NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Alleged Violations of Article 27 of the Environmental Conservation Law of the State of New York and Part 360 of Title 6 of the Official Compilation of Codes, Rules, and Regulations of the State of New York, by	Rulings on Respondents' Second Motion to Recuse the ALJ and additional requests.
Brian F. Conlon, and BCD Tire Chip Manufacturing, Inc.,	DEC Case No.: CO4-20150520-119
Respondents.	August 16, 2021

Proceedings

With an email dated August 4, 2021, Mr. Conlon moved to recuse Commissioner Seggos and me from making any rulings and determinations with respect to the captioned matter. In addition, Mr. Conlon reiterated requests for a forensic investigation into the authenticity of the November 1, 2010, Order on Consent, as well as a change of venue.

This is the second time that Mr. Conlon has filed motions to recuse. The first was with a cover letter dated September 9, 2016.[1] At that time, Mr. Conlon moved to recuse Commissioner Seggos as well as all administrative law judges in the State of New York. In rulings dated October 19, 2016 (at 2-6), I denied Mr. Conlon's motion with respect to the recusal of the ALJs, in general, and me, in particular. In the Interim Decision and Rulings, June 1, 2018 (at 2-4), the Commissioner considered Mr. Conlon's motion to recuse the Commissioner, as well as an appeal from the September 9, 2016, ruling denying his motion for my recusal as the ALJ assigned to this matter. The Commissioner affirmed the September 9, 2016, ruling to deny Mr. Conlon's motion to recuse the ALJ, and denied Mr. Conlon's motion for the Commissioner's recusal (*see* Interim Decision and Rulings, June 1, 2018, at 4).

In an email to the parties dated July 20, 2018, I granted Mr. Conlon's request to serve additional discovery demands upon Department staff, and set forth a schedule concerning service of the demands by respondents, receipt of any motion for a protective order from Department staff, and receipt of Mr. Conlon's response to any motion duly filed by Department staff. Subsequently, in a letter dated June 25, 2021, I inquired about the parties' availability to convene a conference to discuss the status of the case. Neither party contacted me during the period from July 20, 2018, to June 25, 2021, about the status of the matter. After responding to my June 25, 2021, correspondence, a status conference was held on July 20, 2021. On that date, I issued a summary of the conference and a scheduling order.

[1] On September 25, 2016, Mr. Conlon filed supplemental information in support of the initial recusal motion.

Pursuant to 6 NYCRR 622.6(c)(3), parties have five days to respond to a motion. In an email to the parties dated August 12, 2021, I inquired whether staff would be responding to Mr. Conlon's August 4, 2021, motion. In a series of email dated August 12, 2021 (1:10 p.m., 3:50 p.m., and 4:14 p.m.), Mr. Conlon objected to my inquiry, and argued that my inquiry "STINKS of a bad judge asking for help from staff to keep you on this case." In his August 12, 2021, email at 3:50 p.m., Mr. Conlon objected to any late-filed response by staff.

With an email dated August 12, 2021 (7:09 p.m.), Department staff filed a memorandum of law opposing Mr. Conlon's second motion to recuse. Subsequently, Mr. Conlon replied with an email of the same date sent at 8:34 p.m.

I. Motions to Recuse

In his August 4, 2021, motion, Mr. Conlon repeats the bases stated in his previous motion to recuse. In addition, Mr. Conlon notes that I did not respond to his email dated July 20, 2021, concerning his request to send the November 1, 2010, Order on Consent to the FBI crime lab for a forensic investigation into its authenticity. Mr. Conlon argues that I did not have any contact with the parties for the past three years, which shows a lack of interest in the matter. Mr. Conlon argued that I no longer want to continue as the assigned administrative law judge based on the discussion held during the July 20, 2021, status conference. A complete copy of Mr. Conlon's August 4, 2021, email is attached as Appendix A. In addition, a copy of Mr. Conlon's August 12, 2021 (8:34 p.m.), reply is attached to this ruling as Appendix B.

Staff notes that the Commissioner previously denied all requests for relief outlined in Mr. Conlon's August 4, 2021, email. According to Department staff, the Commissioner or an ALJ would be disqualified from presiding in an adjudicatory proceeding where the Commissioner or ALJ suffers a personal bias, prejudice, or other disqualifying factor. These factors include a Commissioner's or ALJ's prejudgment of the facts of a particular case, or a financial or personal interest in or relationship to one of the parties in the matter. (*See* Interim Decision and Rulings, June 1, 2018, at 3-4). Staff contends that absent any of these factors, the presiding officer has the discretion to determine if recusal is warranted. To support this contention, staff references *Crossroads Ventures, LLC*, Commissioner's Ruling, April 29, 2009, at 4 (*see Matter of Murphy*, 82 NY2d 491, 495 (1993) and *People v. Moreno*, 70 NY2d 403, 405-406 (1987)]). (*See* Staff's reply at 3.) According to staff, Mr. Conlon did not cite any authority that would warrant reconsideration of the Commissioner's prior determinations. Department staff argued that the motions should be denied in all respects.

Discussion and Ruling

State Administrative Procedure Act (SAPA) § 303 provides that "[u]pon the filing in good faith by a party of a timely and sufficient affidavit of personal bias or disqualification of a presiding officer, the agency shall determine the matter as part of the record in the case, and its determination shall be a matter subject to judicial review at the conclusion of the adjudicatory proceeding."

Section 622.10(b)(2) of 6 NYCRR provides that "[a]ny party may file with the ALJ a motion . . . requesting that the ALJ be recused on the basis of personal bias or other good cause" (6 NYCRR 622.10[b][2][iii]). The ALJ's determination on a motion for recusal is part of the hearing record (*see id*.; *see also* 6 NYCRR 622.17[b]). A denial of such a motion is appealable as of right to the Commissioner, either on an expedited, interlocutory basis, or after the completion of all testimony in a proceeding (*see* 6 NYCRR 622.10[d][1], [2][i]).

The Commissioner has received a copy of Mr. Conlon's August 4, 2021, motion and Department staff's August 12, 2021, reply. The Commissioner, therefore, will consider that portion of the motion concerning his recusal.

The courts have provided further guidance concerning the grounds for disqualification of an ALJ. An ALJ is disqualified from presiding in an adjudicatory proceeding where the ALJ suffers a personal bias, prejudice, or other disqualifying factor. These factors include an ALJ's prejudgment of the facts of a particular case (*see Matter of 1616 Second Ave. Rest., Inc. v New York State Liq. Auth.*, 75 NY2d 158, 162 [1990]), or a financial or personal interest in or relationship to one of the parties in the matter (*see Matter of Beer Garden, Inc. v New York State Liq. Auth.*, 79 NY2d 266, 278 [1992] [applying Judiciary Law § 14 to an ALJ exercising a quasi-judicial function in an administrative adjudicatory proceeding]). An ALJ is also disqualified where the ALJ previously served as the agency prosecutor in the case, whether actively or merely functionally (*see id*. at 278-279; *see also Matter of General Motors Corp. - Delco Prods. Div. v Rosa*, 82 NY2d 183, 188-189 [1993]). Moreover, the mere circumstance that an agency official is employed by the agency, without more, is not a ground for disqualification (*see Matter of Whalen v Slocum*, 84 AD2d 956 [4th Dept 1981]). Absent one of the above grounds for disqualification, whether recusal is warranted falls within the discretion of the decision maker (*see Matter of Murphy*, 82 NY2d 491, 495 [1993]; *People v Moreno*, 70 NY2d 403, 405-406 [1987]).

In the August 4, 2021, motion, Mr. Conlon does not identify any ground for my disqualification in this case, nor does any such ground exist. I have no personal bias or prejudice concerning either of the parties to this proceeding, nor do I have any personal knowledge of disputed evidentiary facts concerning the proceeding (*see Matter of 1616 Second Ave. Rest.* 75 NY2d at 161-162). The only knowledge I have of the matter is based upon the papers submitted and other communications by the parties.

The Department employs multiple institutional safeguards to protect the independence and impartiality of the ALJs within its employ. Consistent with separation of powers principles imposed upon agencies by procedural due process, statutes such as SAPA, and executive orders, the Office of Hearings and Mediation Services is an independent office within the Department, separate from the Office of General Counsel, other program Divisions, and the Regional Offices. The ALJs and Chief ALJ employed by the Office report on cases directly to either the Commissioner or his designee through the Deputy Commissioner for Hearings and Mediation Services, and not through the Department's General Counsel (*see Matter of Bath Petroleum Storage Inc.*, ALJ Ruling, December 10, 2004, at 4-5). Thus, the prosecutorial and adjudicatory functions are completely separated within the Department.

Other procedural safeguards for ALJ independence include the requirement that ALJ rulings and hearing reports be made public and part of the record (*see* 6 NYCRR 622.17[b]). The Commissioner may reverse or modify an ALJ's findings of fact or conclusions of law, but must do so in a separate Commissioner decision or order on the record, and must provide written reasons for such reversal or modification (*see* 6 NYCRR 622.18[e]; *see also Matter of Simpson v Wolansky*, 38 NY2d 391, 394 [1975]). Finally, an ALJ's impartiality and independence are further protected by Executive Order No. 131.[2] Therefore, the alleged incentive to rule in the Department's favor does not exist. Accordingly, I deny Mr. Conlon's August 4, 2021, recusal motion.

II. Request for Transfer of Venue

Mr. Conlon also renewed his request to transfer this administrative proceeding to a federal forum. I had previously denied this request (*see* September 8, 2016, ruling at 8). The Commissioner considered a request for leave to appeal from the September 8, 2016, ruling. In the June 1, 2018, Interim Decision and Rulings (at 5), the Commissioner denied leave to appeal from the September 8, 2016, ruling concerning Mr. Conlon's request for a change of venue and held that "[m]oreover, even assuming without deciding that respondents' request to the Commissioner to change venue is properly before me, the request is denied."[3]

Based on the Commissioner's June 1, 2018, determination, I deny Mr. Conlon's August 4, 2021, renewed request for a change of venue.

III. November 1, 2010, Order on Consent

In his August 4, 2021, email (*see* Appendix A), Mr. Conlon notes that I did not respond to his email dated July 20, 2021, concerning his request to send the November 1, 2010 Order on Consent to the FBI crime laboratory for a forensic investigation into its authenticity. In the June 1, 2018, Interim Decision and Rulings (at 3-7), the Commissioner addressed Mr. Conlon's concerns about the consent order. Among other things, the Commissioner determined that the November 1, 2010, Order on Consent is not relevant to the captioned matter, and that respondent's claims were unsubstantiated.

Because the Commissioner has previously addressed Mr. Conlon's concerns related to the November 1, 2021, Order on Consent (*see* Interim Decision and Rulings, dated June 1, 2018, at 7), I deny his renewed request to send the document to the FBI crime laboratory for a forensic investigation into its authenticity.

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[2] Executive Order No. 131 (§ II.C, December 4, 1989) states, in part, that the terms and conditions of an ALJ's employment cannot be based on whether an ALJ's rulings, decisions, or other actions either favor or disfavor the agency or the State (*see also* 9 NYCRR 4.131).

[3] *See also* Staff's response at 5-6.

Appeals

Pursuant to 6 NYCRR 622.10(d)(2)(i), Mr. Conlon may appeal from this ruling which denies his motion to recuse the ALJ on an expedited basis. Mr. Conlon's appeal must be received before 3:30 P.M. on September 13, 2021. Department staff may reply, and it must be received before 3:30 P.M. on September 20, 2021.

Send the original hard copy plus one additional copy of any appeal to Commissioner Basil Seggos, Attn: Louis A. Alexander, Deputy Commissioner for Hearings and Mediation Services, 625 Broadway, 14th Floor, Albany, New York, 12233-1010. In addition, send one electronic copy of the appeal to Department staff at the same time and in the same manner as transmittal is made to the Deputy Commissioner. Department staff is direct to follow the same directions when filing the reply.

/s/
Daniel P. O'Connell
Administrative Law Judge

Attachments: Appendix A – Brian Conlon's Motion to Recuse
Appendix B – Brian Conlon's Reply

Dated: Albany, New York
August 16, 2021

Appendix A

Motion for Judge O'connell to recuse himself from this case.

tiremanbri@aol.com <tiremanbri@aol.com>

Wed 8/4/2021 9:29 AM

To: O'Connell, Daniel P (DEC) <daniel.oconnell@dec.ny.gov>; Jeffrey, Kenson C (DEC) <Kenson.Jeffrey@dec.ny.gov>

Judge O'Connell,

I have asked for your recusal before and now with recent and past actions or inactions in this case, I am once again asking for your recusal. I do not feel that you are handling this case fairly and that you still harbor personal ill feelings against me. Let's start from the beginning and watch the progression up to the present along with your emotional outburst at approximately 11 minutes into the recorded conference we just had, "this is why I did not do anything with this case for 3 years". That statement alone shows in your own recorded words that you do not want to be judging this case. During the conference you also referenced that this case was not as important as another case you took over and just dropped this case for an extended time as it was not important to you. You have requested discovery from me and that can not happen with you as a Judge in this case. We all know that there is NO case against me and that staff is attempting to find something against me. This has happened to me previously while in Bankruptcy and NYSDEC even went to the extent of hovering a helicopter 100' over 5 children in a riding arena at my daughter's farm and later that day doing an illegal search of her farm trying to find tire chips there in order to add to a dying NYS Bankruptcy Adversary case against me.

After our first meeting together, you made it very clear that you were not happy with me recording a meeting that by the same law you suggested I broke, 6 NYCRR 622.8 (d), now has changed to a different section (b) and changed to include recording wording that was not there at the time I recorded. NYSDEC had no signage.... to advise that recording was not permitted, in the email sent to me by Jennifer Andaloro advising of the meeting it clearly stated that there was not going to be a stenographic record of the meeting but never stating that I was not permitted to record, and NYS very clearly legally states that one party participation is all that is required to make a legal recording. You very clearly stated in your ruling that my recording was "unlawful and discourteous" and held that "adverse inferences....." would be held against me in the future. YOU LIED!!!! Section (d) at that time very clearly stated the there would not be a stenographic record of the meeting and nothing else. Your ruling on my recording was obviously a very personal opinion and had NOTHING to do with LAW!!! In a January 9, 2017 email to me you said, "I grant your request with the understanding that the transcript prepared by the stenographer will be the official record of the preliminary hearing." This shows that you have a FULL understanding in the difference between my recording and a stenographic record as stated in the original section (d). Obviously the present change in 622.8"s wording shows unquestionably that I was not doing anything unlawful when I recorded a meeting that you were not even supposed to attend. Jennifer Andaloro arrived that day with an armed NYSDEC officer in an attempt to once again intimidate and harass me after you made NO ruling on my request NOT to have a NYSDEC officer present. YOU ALLOWED this very much intended intimidation and harassment to happen by not making the ruling before the meeting and as I am sure you remember the past wording of the 622 PROCEDURES, a judge was not supposed to even be present. Surprising that that wording has also now changed! I have received NO change in your original ruling and quite obviously you continue to harbor ill feelings against me as shown in several sections of this past recorded conference.

Appendix A

Every day this court and yourself with-hold evidence of a felony crime, which you have very clearly acknowledged you have NO authority to prosecute, is another day that you are obstructing justice. As a judge, it would seam that you would be very aware of this. First NYSDEC Region #4 sent by USPO certified mail a forged copy of the consent order with a complaint. That was followed by Jennifer sending a scanned copy of the "original " altered consent order by email and attempting to enforce that forged document. I have requested numerous times to Jennifer and yourself to forward that consent order to the FBI for proper investigation and to date this has NOT happened. More over, that evidence of a felony crime, the consent order, has been deliberately altered again since the day I observed the document with a witness present over a year ago and before I was finally able to see it during the per trial hearing. To my knowledge, only four people had access to that document after I left the DEC conference room last year. They are, Jennifer Andaloro, Captain Bramlage, Ann Lapinski and yourself. Pending a proper investigation into both the original page replacement and now the very disturbing fact that this DEC staff feels that it can literally poke holes in a legal document which is evidence of a felony crime, you have now been added to a very questionable list. I once again am requesting that you recuse yourself and that this document is turned over to the FBI for proper investigation. Please advise me as to whether this has happened, will happen and when it will happen, or if this court intends on continuation of this obstruction of justice.

To date I have still not heard any response to the emails I wrote last week. I do NOT believe you or NYS has the right to withhold this altered and then additionally altered document and due to your refusal to turn the document over to a Federal crime lab for proper forensic testing, now implicates you, the Commissioner and the Assistant Commissioner in a criminal coverup. This Order on Consent is a contract between NYS and myself and I have as much legal right to it as NYS!!!

Over the past 11 years I have spent over 10,000 hours fighting this corrupt administrative law system. This started with my defense of my business, BCD Tire Chip Mfg., Inc. Staff at Region 4 did not like me storing tire chips at my business and then using tire chips at my farm for a riding arena and attacked. There were no laws or violations to be had so they manufactured and created their own narrative to not only close my business but attack me personally. The storage of tire chips at BCD's Hagaman facility posed no human and or environmental dangers, yet in the ruling closing BCD and then allowing NYSDEC to STEAL $1,000,000 from a fund created to protect the environment, use it to remove a NON HAZARDOUS manufactured material and close a NYS business. Commissioner Martens deliberately lied about the conditions at BCD multiple times in his 2013 ruling stating that tires and portions of a tire were a danger to the environment while all the time KNOWING that the tire chips at my business and now at my farm were NEVER a hazard. But it does not end there. To accomplish this the Judge and staff at NYSDEC had to with-hold the ASTM's and later with the initial discovery request in my present case the ASTM engineering reports which clearly state that the tire chips at my farm now and what was present at BCD's Hagaman's location are NOT a hazard were also with-held and Chris Glander even submitted an affidavit stating it's storage and destruction. This leads back to my Bankruptcy and a failing adversary case. NYSDEC Region 4 inspects my farm illegally in violation of a verbal agreement and written legal contract and when they are unable to find any other information to help the adversary case, fly a helicopter over my daughter's farm miles from my farm to look for tire chips. By the way, if I had moved tire chips to my daughter's farm, it would have been COMPLETELY LEGAL!!!!! The BUD very clearly stated that once the tires chips were placed at my farm, they were no longer solid waste, NYSDEC no longer had any control of them. I was not required to dispose of them in any special way and or report that disposal or further use of the chips by the BUD was NOT controlled. That helicopter flight over a 5 and 7 year old child along with 3 other children was then denied about it in a letter written by a NYSAG lawyer stating that neither the AG or DEC owned a helicopter. The AG attorney again tried to mislead and lie, yes DEC and the AG did not own the helicopter, but NYS does and there were 3 Region 4 staff fling in that helicopter directing it's flight. Moving forward we come to this present DEC catastrophe. After

Appendix A

additional illegal site inspections and obviously waiting for my bankruptcy proceedings to fade away, Region 4 worked with Jennifer Andaloro to begin another attack on me. When that attack was initially stopped by a forged document and a possible bankruptcy hurdle, DEC after consulting with Stephen Nagel from the AG adversary case decided to try to create a NEW claim against me. Everything in that claim was manufactured to try to circumvent existing failures but in the end it is still about ALL the same things, my BUD, the tire chips and my farm. Nothing has changed.

Lie in the original order to close BCD and with hold engineering reports, lie about helicopter flights endangering children, lie about altering legal documents, lie about the present BUD and make false affidavits supporting those lies. That is not enough for NYSDEC and it's Administrative Law System, now you lie about recording a pre hearing conference being ILLEGAL!!! When I addressed and asked for a reversal of your ruling on a recorded conference, you threatened beginning the trial without giving me the opportunity to get discovery. You stated in this recent phone conference that this is why you did not.... for 3 years. THE REASON I CONTINUE FIGHTING IS BECAUSE YOU LIED, would not reverse that decision and have treated me just as your original ruling stated, with "adverse inferences". That ruling has destroyed your credibility as a fair judge and has prevented these proceedings from being FAIR. This is not because of me but rather YOU and your personal feeling that you do want to be recorded. I did not break any laws including DEC procedures at that time. I do not know when NYSDEC changed 622.8 and do not care, but at that time, both you and the Commissioner should have corrected your 2014 ruling and did not. I am once again asking for the Commissioner's recusal in this hearing also and once again request change in venue. This Administrative Law system continues to show that it is corrupt. You bend present laws to meet your agenda by LYING, not by using laws as they were planned to be used. The fact that staff will go as far as alter your own legal contracts to suit their own personal needs and KNOW that there will be NO consequences shows just how corrupt you all are.

Based on this and more, I am again requesting your recusal, the Commissioner's recusal and a change in venue. It is not my job to recommend another venue and or how to get there, It is NYS's responsibility to provide a FAIR court to conduct legal business and DEC has shown numerous times that it is not fair with this Administrative court system. DEC lies and covers up it's criminal actions. NYSDEC has obviously recognized that 622.8 did not forbid me from recording the conference back in 2014 and with the changed wording, I have not received and cannot receive any back dated corrections which will resolve all your past rulings to present. Using your obvious and clearly written ill feelings toward my original recording, you have followed with years of unfairness in dealing with me in this case. Clearly NYS has change 622.8 due to my recording of that conference. You are not fit to judge me in this case and your recorded chair swirling act shows you are not suitable nor that you want to serve as a JUDGE in this case period. You are also what appears to me to be part of a criminal cover up of a NYS crime of altering a legal document. Kenson has stated that he feels I should be charged??? I believe that suggests that he knows and or has access to the removed page as that would be required to make a charge against me. That may also implicate him into this criminal cover up. Bottom line is Karen Lavery agreed to the change in the wording and abided by that change up until 1/2014, when NYSDEC began inspecting my property without my permission, a direct violation of the verbal and written / signed contract.

Brian Conlon

Appendix B

Re: Motion for Judge O'connell to recuse himself from this case.

tiremanbri@aol.com <tiremanbri@aol.com>

Thu 8/12/2021 8:34 PM

To: Jeffrey, Kenson C (DEC) <Kenson.Jeffrey@dec.ny.gov>; O'Connell, Daniel P (DEC) <daniel.oconnell@dec.ny.gov>; McClymonds, James T (DEC) <james.mcclymonds@dec.ny.gov>; Seggos, Basil B (DEC) <Basil.Seggos@dec.ny.gov>

Commissioner Segos, Judge Mc'Clymonds, Judge O'Connell,
As you all know, Commissioner Segos never ruled on my legal right to record the pretrial hearing back in 2016, and that NYSDEC has since changed the 622 procedures to exclude recordings. This Judge has continued to make rulings with a grudge against me as he formally wrote in his 2016 ruling. He lied then and has continued to carry on a grudge, including a recorded threat of commencing a trial without me receiving discovery. He has with held a illegally altered order on consent that needs to be immediately turned over to the FBI for forensic review. At the most recent conference meeting he made it very clear that he did not consider this case important and that he did nothing for 3 years with the case because of his personal feelings. BUT with that all said and the email listed below requesting his recusal plus...., he took it upon himself to ask for HELP from staff. Why do I say asked for help????? During the first recusal request in 2016, staff did respond to my motions with a favorable response to him and he undoubtfully would expect the same this time from a corrupt staff losing an argument and claim against me. Staff appears to have worked diligently until 7:09 pm to put together arguments against my motion, but I have also opposed any response from staff because it was simply requested by the Judge looking for HELP. This and all records of this case will be forwarded to news media and the new Governor if this motion response is kept and used and if my motion request are not met. IT IS A CORRUPT COURT SYSTEM and the request to seek a response to a motion 3 days past the 5 day time to respond only adds to the STINK of this JUDGE'S and administrative law system's corruption. My request to a fair trial is a request protected by the NYS and US Constitution. That trial CANNOT be found in this corrupt Administrative Law system, a system that allows Judges and Commissioners to LIE. It is not a NYS citizens responsibility to find a fair court system, it is the State's responsibility to offer one. You are all as corrupt as your corrupt rulings and maybe a new governor will take the time to review NYSDEC and the AG's actions over the past years including the THEFT of funds from the Tire Fund expressly created to cleanup DANGEROUS tire sites used to clean up BCD's site.
Brian Conlon

-----Original Message-----
From: Jeffrey, Kenson C (DEC) <Kenson.Jeffrey@dec.ny.gov>
To: TIREMANBRI@AOL.COM <TIREMANBRI@AOL.COM>; O'Connell, Daniel P (DEC) <daniel.oconnell@dec.ny.gov>
Sent: Thu, Aug 12, 2021 7:09 pm
Subject: RE: Motion for Judge O'connell to recuse himself from this case.

Judge O'Connell,

Please find attached Department Staff's response to the respondent's motions.

Respectfully,

Kenson Jeffrey, Esq.
(518) 402-9527 || kenson.jeffrey@dec.ny.gov

From: Jeffrey, Kenson C (DEC)
Sent: Thursday, August 12, 2021 2:00 PM
To: TIREMANBRI@AOL.COM; O'Connell, Daniel P (DEC) <daniel.oconnell@dec.ny.gov>
Subject: RE: Motion for Judge O'connell to recuse himself from this case.