

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Alleged Violations of Article 25 of the  
New York State Environmental Conservation Law, and Part  
661 of Title 6 of the Official Compilation of Codes, Rules and  
Regulations of the State of New York,

**ORDER**

NYSDEC File No.  
R2-20120830-563

- by -

**KRIS GOUNDEN and  
SONA GOUNDEN,**

Respondents.

---

This administrative enforcement proceeding addresses allegations by staff of the New York State Department of Environmental Conservation (Department or DEC) that respondents Kris Gounden and Sona Gounden committed violations of the State's tidal wetlands law and regulations in an area located at 1 Bayview Avenue and 152 Broadway, Queens, New York (site). The site consists of four parcels (Queens County Tax Block, 14228, Lots 161, 759, 760 and 762), all of which are located within the adjacent area of the State-regulated tidal wetland in Hawtree Basin, with the western portion of the site extending into the State-regulated tidal wetland itself.

Specifically, staff alleged that respondents violated ECL 25-0401 and 6 NYCRR 661.8 by: (a) constructing a dock on pilings in a regulated tidal wetland and its adjacent area without a DEC permit; (b) constructing an overwater deck in a regulated tidal wetland and adjacent area without a DEC permit; and (c) disposing of two vessels in a regulated tidal wetland. One of the vessels was disposed of at the northern end of the site (northern vessel), and the other vessel was disposed of at the southern end of the site (southern vessel). For these violations, Department staff requested that I issue an order holding respondents liable for violating ECL 25-0401 and 6 NYCRR 661.8, assessing a civil penalty against respondents in the amount of \$30,000, and directing respondents to remove the dock, overwater deck and the two vessels.

Staff commenced this proceeding by serving a motion for order without hearing in lieu of complaint (motion) dated February 26, 2018. Respondents did not file a response to staff's motion. The matter was referred to the Office of Hearings and Mediation Services and assigned to Administrative Law Judge (ALJ) Richard A. Sherman. ALJ Sherman prepared the attached summary report which I adopt as my decision in this matter subject to my comments below.

I also hereby adopt the findings of fact and conclusions of law in ALJ Sherman's ruling dated March 8, 2019 (March Ruling), in which the ALJ granted Department staff's motion in part and denied the motion in part.<sup>1</sup> In the March Ruling, the ALJ held that respondents violated

---

<sup>1</sup>The ruling appears on the Department's website at: <https://www.dec.ny.gov/hearings/116500.html>.

ECL 25-0401 and 6 NYCRR 661.8 by constructing an open pile catwalk/dock not greater than 4 feet in width in a regulated tidal wetland and tidal wetland adjacent area without a DEC permit (see March Ruling at 4-6). For that violation, the ALJ held respondents jointly and severally liable and I concur.

The ALJ held that Department staff had established as a matter of law that each respondent violated ECL 25-0401 and 6 NYCRR 661.8 by their disposal of a vessel in a tidal wetland (see March Ruling at 7-9). With respect to the disposal of the two vessels, the ALJ held that respondent Kris Gounden had disposed of the northern vessel in the tidal wetland without a permit and respondent Sona Gounden disposed of the southern vessel in the tidal wetland without a permit. I concur with the ALJ and hold respondent Kris Gounden liable for the disposal of the northern vessel, and respondent Sona Gounden liable for the disposal of the southern vessel.

The ALJ advised the parties that an adjudicatory hearing would be necessary to address allegations that were not resolved by the ruling, specifically the construction of an overwater deck in a regulated tidal wetland and tidal wetland adjacent area without a permit from the Department. By letter dated April 24, 2019 (April letter), counsel for Department staff withdrew the unresolved allegations. Staff however modified its request for relief, requesting that I issue an order assessing a civil penalty in the amount of \$120,000 against respondents, with a \$20,000 payable penalty and a \$100,000 suspended penalty provided that respondents complete all remedial actions to the Department's satisfaction (see April letter at 2). Staff further requested that respondents be directed to remove and properly dispose of the two vessels and that respondents also be directed to remove the dock and restore the tidal wetland adjacent area near the dock (see *id.*). Department staff sent the April letter to each respondent by first class mail and by e-mail. Neither respondent replied to the Department staff's April letter.

For violations of the tidal wetlands law or regulations, ECL 71-2503(1)(a) provides that:

"[a]ny person who violates, disobeys or disregards any provision of article twenty-five shall be liable to the people of the state for a civil penalty of not to exceed ten thousand dollars for every such violation, to be assessed, after a hearing or opportunity to be heard, by the commissioner. Each violation shall be a separate and distinct violation, and, in the case of a continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation."

The Department's Civil Penalty Policy (Commissioner Policy DEE-1 [DEE-1], dated June 20, 1990) states that "[t]he starting point of any penalty calculation should be a computation of the potential statutory maximum for all provable violations" (DEE-1 § IV.B). Department staff discussed certain provisions of DEE-1 as well as the Tidal Wetlands Enforcement Policy (Commissioner Policy DEE-7 [DEE-7], dated Feb. 8, 1990) (see Department Staff Memorandum of Law dated Feb. 26, 2018, at 11-13).

Because the statute provides for the imposition of daily penalties in the case of a continuing violation, each of the proven violations exposes respondents to penalties in the millions of dollars (see Summary Report at 3). The ALJ found that the violation arising from the

disposal of the southern vessel began on or before January 4, 2016 (see March Ruling at 3-4 [Finding of Fact No. 8]). Each of the other proven violations continued for more days than the violation arising from the disposal of the southern vessel (see March Ruling at 3 [Findings of Fact Nos. 6, 7]).

As noted, Department staff in its original papers requested a civil penalty in the amount of \$30,000. By its April letter Department staff increased its request and sought a \$120,000 civil penalty against respondents, with \$100,000 suspended provided that respondents complete all required remedial actions (April letter at 2).

The ALJ, in his summary report, concludes that adopting staff's proposed increase in the penalty from \$30,000 to \$120,000 (albeit with \$100,000 suspended) at such a late date in the proceeding would be prejudicial (see Summary Report at 3). Furthermore, the ALJ dismisses staff's argument that respondents' "inaction and noncooperation" in the proceeding warrants such an increase in penalty because respondents' lack of cooperation was known to staff at the time staff served its motion on respondents at the commencement of this proceeding (Summary Report at 3-4). The ALJ also notes this increase in the civil penalty would be unwarranted in that staff withdrew one of the original three counts against respondents.

I concur with the ALJ's determination that staff's request for a fourfold increase in the total amount of the civil penalty is not supported on this record. Accordingly, I concur with the ALJ that staff's original penalty request should not be increased.

I hereby assess the originally requested civil penalty in the amount of \$30,000, with \$20,000 payable and \$10,000 suspended, according to the following allocation:

- because respondents are jointly liable for the construction of the dock, I am assessing a civil penalty, jointly and severally, against respondents in the amount of fifteen thousand dollars (\$15,000), of which ten thousand dollars (\$10,000) shall be payable with thirty (30) days of the service of this order upon respondents. The remaining five thousand dollars (\$5,000) shall be suspended contingent upon respondents' compliance with the terms and conditions of the order; and
- because each respondent is being held liable for the disposal of only one vessel, I am assessing:
  - (i) a civil penalty in the amount of seven thousand five hundred dollars (\$7,500) against respondent Kris Gounden for disposal of the northern vessel, of which five thousand dollars (\$5,000) shall be payable within thirty (30) days of the service of this order upon respondent Kris Gounden. The remaining two thousand five hundred dollars (\$2,500) shall be suspended contingent upon respondent Kris Gounden's compliance with the terms and conditions of the order; and
  - (ii) a civil penalty in the amount of seven thousand five hundred dollars (\$7,500) against respondent Sona Gounden for disposal of the southern vessel, of which five thousand dollars (\$5,000) shall be payable within thirty (30) days of

respondent Sona Gounden's receipt of this order. The remaining two thousand five hundred dollars (\$2,500) shall be suspended contingent upon respondent Sona Gounden's compliance with the terms and conditions of the order.

With regard to Department staff's request for corrective action, ECL 71-2503(1)(c) empowers the Commissioner to "direct the violator to . . . restore the affected tidal wetland or area immediately adjacent thereto to its condition prior to the violation, insofar as that is possible within a reasonable time and under the supervision of the commissioner" (see also Matter of Accardi, Order of the Commissioner, May 15, 2017, at 8; Matter of Francis, Order of the Commissioner, April 26, 2011, at 2; see also Tidal Wetlands Enforcement Policy, Commissioner Policy DEE-7, Feb. 8, 1990, § III [listing restoration of tidal wetland values and benefits as a primary goal of enforcement]).

Based on this record, I hereby direct respondents Kris Gounden and Sona Gounden to remove the dock, respondent Kris Gounden to remove the northern vessel and respondent Sona Gounden to remove the southern vessel. Respondents Kris Gounden and Sona Gounden are to submit an approvable<sup>2</sup> removal plan for the removal of the dock to Department staff within sixty (60) days of the service of the order upon them.

Kris Gounden is to submit an approvable plan for the removal of the northern vessel within sixty (60) days of the service of this order upon him. Sona Gounden is to submit an approvable plan for the removal of the southern vessel within sixty (60) days of the service of this order upon her.

Each of the removal plans shall include a timetable for commencement and completion of the activities contained therein. Furthermore, each plan shall detail the manner of removal, the protections that will be utilized to avoid any further negative impact to the wetland and the adjacent area, the names of the contractors to be used, the locations where any material from the removal shall be disposed, the plans for restoring any wetland and adjacent area impacted (including details on the type and manner of any proposed revegetation), and any other information reasonably required by Department staff. Respondents are also to provide Department staff with photographs of the areas of the dock and vessels prior to the commencement of their removal and after completion of the removal and restoration.

Furthermore, I encourage respondents to consult with Department staff in respondents' preparation of the required removal plans to ensure that the plans are approvable. Respondents may, upon good cause shown, request an extension of the submission date for the removal plans or milestone dates contained in the plans. Any such request must be made in writing, must set forth the reasons for the request, and be submitted to Department staff in Region 2. The granting of any extension shall be solely within the discretion of Department staff.

---

<sup>2</sup> "Approvable" means a plan that can be approved by Department staff with only minimal revision.

**NOW, THEREFORE**, having considered this matter and being duly advised, it is **ORDERED** that:

- I. Department staff's motion for order without hearing in lieu of complaint is granted in part and denied in part.
- II. I hereby adopt the Findings of Fact and Conclusions of Law set forth in the March 8, 2019 Ruling of Administrative Law Judge Richard Sherman in this matter.
- III. Based on the pleadings and proof submitted with and in support of staff's motion:
  - A. Respondents Kris Gounden and Sona Gounden have, jointly and severally, violated ECL 25-0401 and 6 NYCRR 661.8 by constructing a dock on pilings in a regulated tidal wetland and its adjacent area without a permit issued by the New York State Department of Environmental Conservation;
  - B. Respondent Kris Gounden has violated ECL 25-0401 and 6 NYCRR 661.8 by disposing of a vessel (the northern vessel) in a regulated tidal wetland; and
  - C. Respondent Sona Gounden has violated ECL 25-0401 and 6 NYCRR 661.8 by disposing of a vessel (the southern vessel) in a regulated tidal wetland.
- IV. For the violations listed in paragraph III of this order, I hereby impose civil penalties as follows:
  - A. With respect to constructing a dock on pilings in a regulated tidal wetland and its adjacent area without a permit issued by the New York State Department of Environmental Conservation, a civil penalty, jointly and severally, against respondents Kris Gounden and Sona Gounden in the amount of fifteen thousand dollars (\$15,000). Of this amount, ten thousand dollars (\$10,000) shall be payable within thirty (30) days of the service of this order upon respondents. The remaining five thousand dollars (\$5,000) shall be suspended contingent upon respondents' compliance with the terms and conditions of the order;
  - B. With respect to the disposal of the northern vessel, a civil penalty in the amount of seven thousand five hundred dollars (\$7,500) against respondent Kris Gounden, of which five thousand dollars (\$5,000) shall be payable within thirty (30) days of the service of this order upon respondent Kris Gounden. The remaining two thousand five hundred dollars (\$2,500) shall be suspended contingent upon respondent Kris Gounden's compliance with the terms and conditions of the order; and
  - C. With respect to the disposal of the southern vessel, a civil penalty in the amount of seven thousand five hundred dollars (\$7,500) against respondent Sona Gounden, of which five thousand dollars (\$5,000) shall be payable

within thirty (30) days of the service of this order upon respondent Sona Gounden. The remaining two thousand five hundred dollars (\$2,500) shall be suspended contingent upon respondent Sona Gounden's compliance with the terms and conditions of the order.

- V. Respondents Kris Gounden and Sona Gounden are hereby directed to remove the dock, respondent Kris Gounden is hereby directed to remove the northern vessel and respondent Sona Gounden to remove the southern vessel. For each of these activities, a work plan is to be submitted in approvable form to the Department:
- A. As to the removal of the dock, respondents Kris Gounden and Sona Gounden are to submit an approvable removal plan for the removal of the dock to Department staff within sixty (60) days of the service of the order upon them. The removal plan shall detail the manner of removal of the dock, the protections that will be utilized to avoid any further negative impact to the wetland and the adjacent area, the names of the contractors to be used, the locations where any material from the removal shall be disposed, the plans for restoring the wetland and adjacent area impacted (including details on the type and manner of any proposed revegetation); and any other information reasonably required by Department staff;
  - B. As to the removal of the northern vessel, respondent Kris Gounden is to submit an approvable removal plan within sixty (60) days of the service of this order upon him, which will include the same type of information as required for the work plan for the dock removal;
  - C. As to the removal of the southern vessel, respondent Sona Gounden is to submit an approvable removal plan within sixty (60) days of the service of this order upon her, which is to include the same type of information as required for the work plan for the dock removal; and
  - D. Respondents are also to provide Department staff with photographs of the areas of the dock and vessels prior to the commencement of their removal and after completion of the removal and restoration.
- VI. The payment of the civil penalties and the submission of the remedial plan shall be sent to the following address:

James L. Simpson, Esq.  
Assistant Regional Attorney  
NYS Department of Environmental Conservation  
Office of General Counsel, Region 2  
47-40 21<sup>st</sup> Street  
Long Island City, NY 11101

- VII. Any questions or other correspondence regarding this order shall also be directed to James L. Simpson, Esq., at the address referenced in paragraph VI of this order.
- VIII. The provisions, terms, and conditions of this order shall bind respondents Kris Gouden and Sona Gouden, and their agents, successors and assigns, in any and all capacities.

For the New York State Department of  
Environmental Conservation

By: /s/  
Basil Seggos  
Commissioner

Dated: Albany, New York  
September 10, 2020

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Alleged Violations of Article 25 of  
the New York State Environmental Conservation Law,  
and Part 661 of Title 6 of the Official Compilation of  
Codes, Rules and Regulations of the State of New York,

**SUMMARY REPORT**

- by -

NYSDEC File No.  
R2-20120830-563

**KRIS GOUNDEN, and  
SONA GOUNDEN,**

Respondents.

---

**PROCEEDINGS**

This summary report addresses an unopposed motion for order without hearing (motion), that was filed with the Office of Hearings and Mediation Services by staff of the New York State Department of Environmental Conservation (DEC or Department). By ruling dated March 8, 2019 (ruling), I granted the motion in part and denied the motion in part.<sup>1</sup> I also advised the parties that an adjudicatory hearing would be necessary to address those allegations that were not resolved (unresolved allegations) by the ruling, and stated that I would soon contact the parties to discuss potential hearing dates (ruling at 9).

On April 19, 2019 I convened a conference call to discuss potential dates for an adjudicatory hearing on the unresolved violations. Although respondents were provided notice of the conference call, they did not participate (*see* letter to the parties, dated Apr. 19, 2019). During the call, Department staff advised that it intended to withdraw the unresolved violations and seek an order of the Commissioner in relation to the violations for which respondents were held liable (proven violations) under the ruling (*see* letter to the parties, dated Apr. 19, 2019).

By letter dated April 24, 2019 (April 24 letter) counsel for Department staff, James L. Simpson, withdrew the unresolved violations and requested an order of the Commissioner imposing penalties and injunctive relief on the basis of the proven violations. Respondents did not file a response to the April 24 letter.

This summary report addresses only Department staff's request for relief, as set forth in the motion and supplemented by staff's April 24 letter. Respondents' liability for the proven violations is established under the ruling.

---

<sup>1</sup>The ruling, which includes findings of fact and conclusions of law, may be viewed on the Department's website at: <https://www.dec.ny.gov/hearings/116500.html>.

## DISCUSSION

### Respondents' Liability

As discussed in the ruling, I held that Department staff had established as a matter of law that respondents violated ECL 25-0401 and 6 NYCRR 661.8 by constructing an open pile catwalk or dock not greater than 4 feet in width in a regulated tidal wetland and tidal wetland adjacent area without a DEC permit (ruling at 4-6). For this violation, I held respondents jointly and severally liable.

The ruling also held that Department staff had established as a matter of law that each respondent violated ECL 25-0401 and 6 NYCRR 661.8 by disposing of a vessel in a tidal wetland (ruling at 7-9). There are two partially sunken vessels at the site and staff had sought to impose liability on both respondents for both vessels (*see* motion at 2). For the reasons discussed in the ruling, however, I held each respondent liable for the disposal of one vessel (ruling at 7-9). Specifically, I held respondent Kris Gounden liable for the disposal of the partially sunken vessel (northern vessel) that lies at the northern end of the site, and respondent Sona Gounden liable for the disposal of the partially sunken vessel (southern vessel) that lies at the southern end of the site (*id.*).

Department staff also sought to hold respondents liable for the construction of an overwater deck in a regulated tidal wetland and tidal wetland adjacent area without a permit from the Department (*see* motion at 2). I held, however, that staff had failed to establish this violation as a matter of law (*see* ruling at 6-7).

### Relief

By its motion, Department staff requested that the Commissioner issue an order (i) holding respondents liable for the violations alleged in the motion, (ii) assessing a civil penalty in the amount of \$30,000, and (iii) directing respondents "to remove the dock, overwater deck, and sunken vessels" (motion at 2).

By its April 24 letter, Department staff withdrew the unresolved violations and modified its request for relief. The April 24 letter requests that the Commissioner issue an order assessing a \$120,000 penalty against respondents, with \$100,000 suspended provided that respondents complete all remedial actions "to the Department's satisfaction" (April 24 letter at 2). Staff further requests that the Commissioner direct:

- each respondent to "remov[e] and proper[ly] dispos[e] of one of the two sunken vessels;" and
- respondents to "remov[e] . . . the dock" and "restore tidal wetlands adjacent areas near the dock" (*id.*).

-- Penalty

For violations of the tidal wetlands law or regulations, ECL 71-2503(1)(a) provides that:

"[a]ny person who violates, disobeys or disregards any provision of article twenty-five shall be liable to the people of the state for a civil penalty of not to exceed ten thousand dollars for every such violation, to be assessed, after a hearing or opportunity to be heard, by the commissioner. Each violation shall be a separate and distinct violation and, in the case of a continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation."

The Department's Civil Penalty Policy (Commissioner Policy DEE-1 [DEE-1], dated June 20, 1990) states that "[t]he starting point of any penalty calculation should be a computation of the potential statutory maximum for all provable violations" (DEE-1 § IV.B).

Because the statute provides for the imposition of daily penalties in the case of a continuing violation, each of the proven violations exposes respondents to penalties in the millions of dollars. For example, in my ruling I found that the violation arising from the disposal of the southern vessel began on or before January 4, 2016 (ruling at 3-4 [findings of fact ¶ 8]). Using the date of the motion as the end date of the violation, the southern vessel remained partially sunken in the tidal wetland for at least 785 days, thereby resulting in a maximum statutorily penalty of \$7,850,000. I note that each of the other proven violations continued for more days than the violation arising from the disposal of the southern vessel (*see id.* at 3 [findings of fact ¶¶ 6, 7]).

In its memorandum of law (MOL) in support of the motion, Department staff discussed certain provisions of DEE-1 as well as the Tidal Wetlands Enforcement Policy (Commissioner Policy DEE-7 [DEE-7], dated Feb. 8, 1990) (MOL, dated Feb. 26, 2018, at 13). The MOL states that staff "could request the maximum penalty for each day of violation, but in its discretion . . . determined [the \$30,000] penalty to be a fair disposition" (MOL at 13). By its April 24 letter, however, Department staff seeks a \$120,000 penalty against respondents, with \$100,000 suspended provided that respondents complete all required remedial actions (April 24 letter at 2).

I decline to recommend that the Commissioner adjust the penalty upward from that requested in the motion. As discussed above, the motion placed respondents on notice that, if they were held liable for the violations alleged in the motion, they could be assessed a penalty in the amount of \$30,000 (motion at 2). Had the motion sought a penalty in the amount that staff now proposes under the April 24 letter, respondents may have elected to actively defend against the Department's allegations. Accordingly, it would be prejudicial to assess the penalty requested by staff in its April 24 letter.

I also note that Department staff states that its request for a higher penalty amount is premised on respondents' "inaction and noncooperation" in this proceeding (April 24 letter at 2). Staff asserts that, because of this lack of cooperation, "the Department does not have confidence that Respondents will conduct the injunctive relief requested" (*id.*). Although staff's concern is understandable, respondents' lack of cooperation was already known to staff at the time that it

served the motion (*see* Affirmation of James L. Simpson, dated Feb. 23, 2018, ¶¶ 4, 5 [noting that respondents did not respond to the notices of violation that were issued by the Department, nor did they respond to other attempts by staff to contact respondents]).

Finally, I note again that the motion was only granted in part. Department staff did not prevail with regard its allegation that respondents constructed an overwater deck at the site (ruling at 7). Notably, the overwater deck appears to be the largest of the structures at issue in this proceeding (*see* ruling at 6-7 [stating that there "appears to be decking along most of the shoreline of the site"]; *see also* motion, exhibit M [aerial photograph with overwater deck, dock, and partially sunken vessels highlighted]). Staff's withdrawal of this allegation weighs against increasing the penalty.

In consideration of the foregoing, I recommend that Commissioner issue an order assessing a penalty against respondents in the amount of \$30,000, with \$10,000 suspended provided that respondents comply with all terms and conditions of the order. Because respondents are jointly liable under the first cause of action (construction of the dock), I recommend that the Commissioner assess a penalty, jointly and severally, against respondents in the amount of \$15,000, with \$5,000 suspended. For the third cause of action (disposal of the vessels), I recommend that the Commissioner assess a penalty in the amount of \$7,500, with \$2,500 suspended against (i) responded Kris Gounden for disposal of the northern vessel; and (ii) respondent Sona Gounden for disposal of the southern vessel.

#### -- Corrective Action

With regard to Department staff's request for corrective action, ECL 71-2503(1)(c) empowers the Commissioner to "direct the violator to . . . restore the affected tidal wetland or area immediately adjacent thereto to its condition prior to the violation, insofar as that is possible within a reasonable time and under the supervision of the commissioner."

As requested by Department staff, I recommend that the Commissioner direct respondents to remove the dock and the partially sunken vessels. To that end, I recommend that the Commissioner direct respondents to submit an approvable removal plan to the Department within 60 days of respondents' receipt of the Commissioner's order.

### **RECOMMENDATIONS**

I recommend that the Commissioner issue an order holding respondents jointly and severally liable for violating ECL 25-0401 and 6 NYCRR 661.8 by constructing of an open pile catwalk or dock not greater than 4 feet in width in a regulated tidal wetland and tidal wetland adjacent area without a permit. For this violation I recommend that the Commissioner assess a penalty, jointly and severally, against respondents in the amount of \$15,000, with \$5,000 of the penalty suspended provided that respondents comply with all terms and conditions of the order.

I further recommend that the Commissioner issue an order holding respondent Kris Gounden liable for violating ECL 25-0401 and 6 NYCRR 661.8 by disposing of the northern

vessel in a tidal wetland. For this violation I recommend the Commissioner assess a penalty against respondent Kris Gouden in the amount of \$7,500, with \$2,500 of the penalty suspended provided that respondent complies with all terms and conditions of the order.

I further recommend that the Commissioner issue an order holding respondent Sona Gouden liable for violating ECL 25-0401 and 6 NYCRR 661.8 by disposing of the southern vessel in a tidal wetland. For this violation I recommend the Commissioner assess a penalty against respondent Sona Gouden in the amount of \$7,500, with \$2,500 of the penalty suspended provided that respondent complies with all terms and conditions of the order.

I further recommend that the Commissioner issue an order directing (i) respondents to remove the dock from the tidal wetland and tidal wetland adjacent area; (ii) respondent Kris Gouden to remove the northern vessel from the tidal wetland; and (ii) respondent Sona Gouden to remove the southern vessel from the tidal wetland.

To ensure the proper removal of the dock and vessels, I recommend that the Commissioner direct respondents to submit an approvable removal plan to the Department within 60 days of service of the order on respondents. Lastly, I recommend that the order provide for imposition of the suspended penalty amounts if respondents fail to abide by the terms and conditions of the order including, without limitation, the completion of all removal activities to the satisfaction of the Department.

/s/

Richard A. Sherman  
Administrative Law Judge

Dated: May 22, 2019  
Albany, New York