

**STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

In the Matter of the Alleged Violations of Articles 17 and 71 of the New York State Environmental Conservation Law, Article 12 of the New York State Navigation Law, and Titles 6 and 17 of the Official Compilation of Codes, Rules and Regulations of the State of New York,

**ORDER OF
DISPOSITION**

NYSDEC File No.
R3-20190321-58

by

**RABEE HOLDINGS INC., ROUTE 9D HOLDINGS
INC. and ROUTE 376 HOLDINGS INC.,**

Respondents.

Appearances of Counsel:

- Thomas S. Berkman, Deputy Commissioner and General Counsel (Joyce Giudice and Lara Quintiliani-Olivieri, of counsel), for staff of the Department of Environmental Conservation
- Young Sommer LLC (Dean S. Sommer and Joseph F. Castiglione, of counsel), for respondents

Proceedings

By Notice of Motion dated July 31, 2019, Staff of the New York State Department of Environmental Conservation (“DEC” or “Department”) moved for an order without hearing in lieu of complaint pursuant to Section 622.12(a) of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (“6 NYCRR”). The motion alleged that respondents, Rabee Holdings Inc., Route 9D Holdings Inc., and Route 376 Holdings Inc. (“respondents”) violated the terms of a January 2018 order on consent (the “2018 Order”).

The 2018 Order addressed violations at three different abandoned gasoline stations to which respondents acquired title from Dutchess County by tax sale. Respondent Rabee Holdings Inc. acquired the 538 Route 52, Glenham, New York facility. Respondent Route 9D Holdings Inc. acquired the 2755 West Main Street, Wappingers Falls, New York facility. Respondent Route 376 Holdings Inc. acquired the 1592 Route 376, Wappingers Falls, New York facility.

In addition to the allegations related to the 2018 Order, Department Staff’s motion alleged violations of Articles 17 and 71 of the New York State Environmental Conservation Law

(“ECL”), and alleged further that respondent Route 376 Holdings Inc. violated Article 12 of the New York State Navigation Law (“NL”), Part 613 of 6 NYCRR, and Part 32 of 17 NYCRR.

Respondents opposed the motion in a submission dated August 29, 2019, and moved to supplement the record on January 30, 2020. Administrative law judge (“ALJ”) Maria E. Villa was assigned to the matter. The parties attempted to resolve the matter through mediation, but were unsuccessful.

In a ruling dated October 31, 2020, the ALJ granted Department Staff’s motion in part, and denied the motion in part. The ALJ granted respondents’ motion to supplement. Following the issuance of the ruling, the parties engaged in further settlement discussions. During a conference call on December 2, 2020, the parties notified the ALJ that an agreement had been reached. On December 29, 2020, the parties provided an executed Stipulation of Settlement (the “Stipulation”), dated December 21, 2020.

Discussion

A stipulation executed by all the parties to the proceeding resolving any or all issues removes those issues from further consideration in the hearing (*see* Sections 622.18(c) and 624.13(d) of 6 NYCRR). Where the parties’ agreement resolves all issues, such as the case here, the agreement must be reduced to writing and accepted by all parties. The written agreement must then be submitted to the administrative law judge to be included in the hearing record, along with written statements, signed by the parties or their representatives, stating that the agreement and any conditions resolve all issues between the parties (*see* DEC Organization and Delegation Memorandum 94-13, *Effect of Stipulations on Decision-Making in Permit and Enforcement Hearings*, May 5, 1994, at 2).

In this proceeding, the Stipulation has been received into the record, incorporating the agreement of the parties, and indicating that the Stipulation fully resolves all issues between the parties to this proceeding. Stipulation, ¶ 6.

Order of Disposition

ACCORDINGLY, IT IS HEREBY ORDERED that the hearing record in this proceeding is closed.

_____/s/

Maria E. Villa
Administrative Law Judge

Dated: December 31, 2020
Albany, New York