

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of General Counsel, Region 4
1130 North Westcott Road, Schenectady, NY 12306-2014
P: (518) 357-2048 | F: (518) 357-2087
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CERTIFIED - RETURN RECEIPT REQUESTED

7016 0340 0000 4616 7854

December 5, 2016

Steven J. Murawski
Associate General Counsel - Regulatory & Environmental Law
Archer Daniels Midland Company
4666 Faries Parkway
Decatur, IL 62526

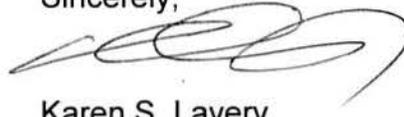
Re: Order on Consent
R4-2013-1112-135
ADM Milling Co.

Dear Mr. Murawski:

Enclosed please find a copy of the fully executed Order on Consent referenced above.

This will also acknowledge receipt of \$1,000 the civil penalty pursuant to Paragraph I.

Sincerely,



Karen S. Lavery
Assistant Regional Attorney
Region 4

Enclosure

ec: D. Welsted

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Violations
of Environmental Conservation Law
Article 19

Order on Consent
File No. R4-2013-1112-135

-by-

ADM Milling Co.
P.O. Box 398
Hudson, NY 12534

Respondent

WHEREAS:

Jurisdiction

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, ADM Milling Co., owns and operates a facility located on 201 State Route 23B in Greenport, New York ("facility").
3. Department staff inspected the facility on August 7, 2013 and August 22, 2013 ("inspections").
4. The facility is a flour mill which operates pursuant to permit number 4-1040-00035/00001-00020.

Violation

5. On March 30, 2000, Respondent entered into an Order on Consent (R4-2000-0303-15) ("Prior Order"). The Prior Order's Schedule of Compliance required:

"A. Within sixty (60) days of the effective date of this Order, Respondent shall submit to the Department for approval, a report on the cause(s) of the dust emissions described in the Order. The reports shall also include a Dust Control Plan prepared by a New York State Licensed Professional Engineer which when implemented by Respondent will prevent the reoccurrence of another dust emission violation. Compliance with this paragraph shall not be a defense to any subsequent violation of applicable laws and regulations.

B. Respondent shall implement the Fugitive Dust Control Plan within thirty (30) days of its approval by the Department.”

6. The Department approved the 2000 Fugitive Dust Control Plan (“The 2000 Plan”) which included implementation of various measures to control dust, one of which was the operation of a water truck to assist with road sweeping.
7. At the time of the inspections, Respondent advised Department staff that there was no watering truck on-site and no watering was being done.
8. Respondent violated the 2000 Fugitive Dust Control Plan provided for in the Prior Order’s Schedule of Compliance, by failing to utilize a water truck to assist with road sweeping.
9. The present Order on Consent supercedes Order on Consent R4-2000-0303-15 which was effective March 30, 2000.

Civil Penalty

10. ECL Section 71-2103(1) provides that: ...” any person who violates any provision of article nineteen or any code, rule or regulation which was promulgated pursuant thereto;... shall be liable, in the case of a first violation, for a penalty not less than five hundred dollars nor more than eighteen thousand dollars for said violation and an additional penalty of not to exceed fifteen thousand dollars for each day during which such violation continues. In addition thereto, such person may be enjoined from continuing such violation as hereinafter provided.”

Waiver of Hearing

11. Respondent has affirmatively waived its 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 to the aforesaid alleged violation, a civil penalty in the amount of THREE THOUSAND DOLLARS (\$3,000) is hereby assessed against the Respondent of which ONE THOUSAND DOLLARS (\$1,000) 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.

The balance TWO THOUSAND DOLLARS (\$2,000) shall be suspended so long as Respondent shall comply with the Schedule of Compliance.

In the event that Respondent fails to comply with the requirements of this Order the entire suspended portion of the penalty shall become due and payable upon written notice to Respondent without prejudicing the Department from seeking further appropriate penalties for violations of this Order by the Respondent.

II. Settlement

Timely payment of the civil penalty and the EBP called for above and full compliance with the terms and conditions of this Order and Schedule of Compliance is accepted as full settlement of the violations described above.

III. Schedule of Compliance

The attached Schedule of Compliance is incorporated into the Order on Consent.

IV. Communications

All communications to the Department except where otherwise specifically directed should be sent to:

New York State Department
of Environmental Conservation
Region 4 - Air Division Attn: RAPCE
1130 North Westcott Road
Schenectady, New York 12306
518-357-2350

V. Access

For the purpose of monitoring or determining compliance with this Order, employees and agents of the Department shall be provided access to any facility, site or records owned, operated, controlled or maintained by Respondent, which relate to the site, in order to inspect and/or perform such tests as the Department may deem appropriate, to copy such records, or to perform any other lawful duty or responsibility.

VI. Summary Abatement

This Order shall not be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

VII. Indemnification

Respondent shall indemnify and hold harmless the Department, the State of New York, and its representatives and employees 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, its directors, officers, employees, servants, agents, successors or assigns.

VIII. Entire Agreement; Modification

This Order constitutes the entire agreement of the parties, and no provision of the agreement shall be deemed waived or otherwise modified except as is specifically set forth in a writing executed by the Commissioner or Regional Director of DEC indicating an intent to modify this Order.

IX. Document Reviews

1. All documents which Respondent must submit pursuant to this Order are subject to Department approval.
2. The Department shall review each of the submittals Respondent makes pursuant to this Order to determine whether it was prepared, and whether the work done to generate the data and other information in the submittal was done, in accordance with this Order and generally accepted technical and scientific principles. The Department shall notify Respondent in writing of its approval or disapproval of the submittal. All Department-approved submittals shall be incorporated into and become an enforceable part of this Order; and Respondent shall implement them in accordance with their respective schedules and terms, as approved.
3.
 - a. If the Department disapproves a submittal, it shall so notify Respondent in writing and shall specify the reasons for its disapproval. Within the time frame set forth in that written notification, Respondent shall make a revised submittal to the Department that addresses and resolves all of the Department's stated reasons for disapproving the first submittal.
 - b. After receipt of the revised submittal, the Department shall notify Respondent in writing of its approval or disapproval. If the revised submission is not approvable as submitted, the Department, at its option, may disapprove it or may approve it on condition that Respondent accepts such modifications as may be specified by the Department to make it approvable. If Respondent does not accept such modifications, the revised submission will be disapproved. If the Department disapproves of the revised submittal, the Department may seek to enforce the Order by asserting that Respondent's failure to submit an approvable report is a violation of this Order. If the Department approves the revised submittal, it shall be incorporated into and become an enforceable part of this Order.
 - c. Respondent shall modify and/or amplify and expand a submittal upon the Department's direction to do so if the Department determines, as a result of reviewing data generated by an activity required under this Order as a result of reviewing any other data or facts, that further work is necessary. The Department agrees that any modification it specifies will be reasonable and consistent with customary engineering standards.

X. Effective Date

This Order is deemed effective on the date signed by the Department.

XI. Third Party Language

This Order is made strictly for the purposes of the Department, the State of New York and the United States Environmental Protection Agency and is not intended for use by any third party.

DATED: *December 5*, 2016
Rotterdam, New York

Basil Seggos
Commissioner
New York State Department of
Environmental Conservation

BY:

A handwritten signature in black ink, appearing to read "Keith Goertz", written over a horizontal line.

Keith Goertz
Regional Director
Region 4

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order, waives its right to notice and hearing herein and agrees to be bound by the provisions, terms and conditions contained herein.

ADM Milling Co.

SIGNED: Tim Schaal

TITLE: VP of Operations

DATE: 11-28-2016

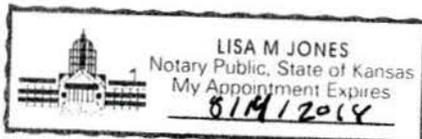
STATE OF Kansas)

COUNTY OF Johnson) ss.:

On the 28th day of November in the year 2016 before me, the undersigned, a Notary Public in and for the State, personally appeared Tim Schaal personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

[Signature]
Notary Public

Qualified in the County of:
My Commission Expires:



SCHEDULE OF COMPLIANCE

1. Within 60 days of the effective date of this Order, Respondent shall submit to the Department, a revised Fugitive Dust Control Plan to prevent further Part 211 violations. Compliance with the plan shall not be a defense to other Part 211 and other regulatory violations.
2. Upon submission and Department approval of the Fugitive Dust Control Plan, this Order on Consent is terminated.
3. Within 30 days of the effective date of this Order, Respondent shall incorporate the revised and approved Fugitive Dust Control Plan into the Respondent's health and safety training program.
4. Effective immediately, Respondent shall implement the approved revised Fugitive Dust Control Plan and maintain a log to be kept on site, documenting the maintenance of the roadways, including watering, to minimize dust generation.