

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of Violations  
of the Environmental Conservation  
Law ("ECL") Article 17 and  
Title 6 of the Official Compilation  
of Codes, Rules and Regulations of the  
State of New York (6 NYCRR)

- by -

**MODIFICATION OF  
ORDER ON CONSENT**  
(4<sup>th</sup> Modification)  
File No. R4-2001-0105-9M4

Town of Cairo  
P.O. Box 728  
Main Street  
Cairo, NY 12413

Respondent

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WHEREAS:

JURISDICTION

1. New York State Department of Environmental Conservation ("DEC") has administrative jurisdiction to abate and prevent the pollution of water of the State pursuant to Article 17 of the Environmental Conservation Law ("ECL") and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR).

FACTS

2. Respondent, Town of Cairo, is a municipality of the State of New York which operates a waste water treatment plant ("WWTP") located on County Route 41, northwest of the hamlet of Cairo. Respondent's mailing address is: P.O. 728, Main Street, Cairo, New York 12413. The Town is subject to a SPDES permit (No. NY0260819)("permit").

3. Respondent is subject to a 3<sup>rd</sup> Modification of an Order on Consent ("Order") (R4-2001-0105-9M3) (effective date, April 8, 2008).

4. Paragraph 1 of the 3<sup>rd</sup> Modification's Schedule of Compliance required that by April 1, 2009, Respondent shall *"Develop a plan and schedule to purchase, install, and operate sand filtration as required to meet the effluent limits contained in the SPDES permit. Once approved by the Department, the plan and schedule will become enforceable under this Order."*

5. On January 9, 2009, the Department received a written request from the Respondent to extend the completion date for the sand filtration unit by three months to June 30, 2009 (attached as Exhibit A). The Department finds good cause based on the letter, to grant Respondent's request for an extension.

#### GENERAL

6. Respondent has affirmatively waived their right to notice and hearing in the manner provided by law and has consented to the issuing and entering of this 4<sup>th</sup> Modification and agrees to be bound by the terms, provisions and conditions contained within the 4<sup>th</sup> Modification.

NOW, having considered this matter and being duly advised, **IT IS HEREBY ORDERED THAT:**

I. Respondent is assessed a civil penalty in the amount of TEN THOUSAND DOLLARS (\$10,000). The entire penalty shall be suspended, and shall not be payable, provided that Respondent complies with the requirements in the Schedule of Compliance.

In the event that the Respondent fails to fully comply with the requirements in the Schedule of Compliance, the entire portion of the suspended penalty shall become due and payable upon written notice to Respondent without prejudicing the Department from seeking further appropriate penalties and relief for violations of this Order by Respondent. Respondent shall deliver the suspended penalty amount to the Department within ten business days after receipt of such written notice to the Respondent.

II. No terms, conditions or provisions of the 3<sup>rd</sup> Modification are modified unless expressly provided herein.

III. The effective date of the 4<sup>th</sup> Modification shall be the date upon which it is signed on behalf of the Department.

IV. The 4<sup>th</sup> Modification's Schedule of Compliance supercedes the 3<sup>rd</sup> Modification's Schedule of Compliance.

V. The 4<sup>th</sup> Modification shall terminate upon Respondent's compliance with the terms of the Order and the 4<sup>th</sup> Modification's Schedule of Compliance.

DATED: , 2009  
Rotterdam, New York

Alexander B. Grannis  
Commissioner  
New York State Department of  
Environmental Conservation

BY:

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Eugene J. Kelly  
Regional Director  
Region 4

CONSENT BY RESPONDENT

Town of Cairo

Respondent hereby consents to the issuing and entering of this 4th Modification, waives their right to a hearing herein, and agrees to be bound by the provisions, terms and conditions contained herein.

BY: \_\_\_\_\_ TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

STATE OF NEW YORK    )  
  )ss.:  
COUNTY OF                    )

On the \_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_ before me, the undersigned, a Notary Public in and for the State, personally appeared, 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.

\_\_\_\_\_  
Notary Public  
Qualified in the County of:  
My Commission Expires:

## **SCHEDULE OF COMPLIANCE**

I. On or before June 30, 2009, Respondent shall complete the installation and commence operation of the Department reviewed sand filtration unit as required to meet the effluent limits contained in the SPDES permit. Once approved by Department, the plan and schedule will become enforceable under this Order.

II. As of the effective date of the 4<sup>th</sup> Modification and thereafter, Respondent shall continue to implement the Department approved inflow and infiltration plan in accordance with the plan's schedule.

III. Until satisfactory completion of the Schedule of Compliance, no new sewer connections shall be made within the Respondent's sewer system except as follows:

a) Connections shall be allowed to eliminate existing or potential public health nuisances or hazards.

b) Relief can also be considered in certain cases where economic hardship can be clearly demonstrated.

c) Application of such relief shall be made to the Regional Water Engineer. Such application shall include, at a minimum, a description of the quantity of wastes and types of waste to be introduced to the system, an assessment of the capacity of the existing system to accept the additional flow without overloading the WWTP, an assessment of the effect of the additional discharge on the receiving water, the reduction of flow to the WWTP from remediation of I&I, if appropriate, and an evaluation of the overall environmental effect if the limited relief is not allowed. The Department will either approve or disapprove such application in writing.