

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of General Counsel, Region 4
1130 North Westcott Road, Schenectady, NY 12306-2014
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www.dec.ny.gov

TRANSMITTAL BY EMAIL ONLY

September 13, 2017

James A. Caruso
City of Troy
Office of the Corporation Counsel
City Hall
433 River Street, Suite 5000
Troy, New York 12180
jim.caruso@troyny.gov

Re: Order on Consent
R4-2017-0720-226

Dear Mr. Caruso:

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

Sincerely,



Richard Ostrov
Regional Attorney
Region 4

Enclosure

ec: S. Crisafulli
D. Thorsland



Department of
Environmental
Conservation

**NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

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In the Matter of Violations of Article 17 of the Environmental
Conservation Law and Part 750 of Title 6 of NYCRR

Order on Consent
R4-2017-0720-226

- By -

City of Troy
433 River Street
Troy, NY 12180

Respondent
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WHEREAS, City of Troy (SPDES Permit # NY-0099309) is subject to ECL Section 17-0826-a also known as the Sewage Pollution Right to Know Act ("SPR TK"), and implementing regulations at 6 NYCRR 750-2.7(b)(2). The Act and regulations require owners and operators of publicly owned treatment works ("POTWs") and publicly owned sewer systems ("POSSs") to report untreated and partially treated sewage discharges to DEC and health authorities immediately, but in no case later than two hours from discovery of the discharge.

WHEREAS, the violations consist of Respondent's failure to report within two hours combined sewer outfall discharges to the Hudson River between June 23, 2017 and July 2, 2017 in violation of ECL Section 17-0826-a and 6 NYCRR 750-2.7(b)(2)(i).

WHEREAS, Respondent has: (i) admitted to failing to report the discharges in a timely manner; (ii) taken actions to ensure timely reporting in the future; (iii) provided notifications to the DEC after the fact; (iv) signed this Order; and (v) agreed to a \$5000 EBP consisting of the purchase, installation, and continuous operation of monitoring equipment in at least one CSO regulator or outfall for the purposes of determining when to report CSO discharges under SPR TK; and (vi) sent this signed and notarized Order to the New York State Department of Environmental Conservation, Office of General Counsel-Region 4, 1130 North Westcott Road, Schenectady, New York, 12306-2014, Attn: Rich Ostrov, Regional Attorney;

WHEREAS Respondent, having waived the right to a hearing on said violations, and after due consideration having been had thereon, it appearing that this Order will be advantageous to the State, and Respondent admits the violation set forth herein;

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to the applicable provisions of the ECL and/or Rules and Regulations, that:

I. No change in this Order shall be made or become effective except as set forth by a written order of the Commissioner or the Commissioner's designee.

II. Respondent shall indemnify and hold harmless the Department, the State of New York, and their 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 this Order by Respondent and its successors (including successors in title) and assigns.

III. Respondent shall pay FIVE THOUSAND DOLLARS (\$5,000) towards an Environmental Benefit Projects ("EBP") consisting of purchasing, installing and continuously operating monitoring equipment in at least one CSO regulator or outfall for the purposes of determining when to report CSO discharges under SPRTK. The proposed location(s) of the monitoring equipment shall be reviewed by the Department and deemed acceptable prior to installation. Installation shall be completed within 30 days of the Department's acceptance of the location(s). Respondent shall submit to the Department proof of the purchase and installation of the monitoring equipment and receipts. No credit toward the EBP shall be given for work performed by City employees. If the cost of the monitoring equipment and installation is less than \$5000, the balance of the unexpended EBP is to be paid as a civil penalty and a check made payable to the "NYS DEC" shall be returned at the same time as the submittal of the proof of purchase and installation and receipts.

Any statements, whether oral or written, that Respondent (or a third party at the request of the Respondent) makes with respect to the EBP will include language stating that the project was undertaken as part of the resolution of an enforcement matter brought by the Department for applicable violation(s).

IV. This Order settles all claims for civil and administrative penalties concerning only those violations described in this Order against Respondent.

V. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting any of the civil, administrative, or criminal rights of the Department or of the Commissioner or his/her designee (including, but not limited to, nor exemplified by, the rights to recover natural resources damages and to exercise any summary abatement powers or authorities with respect to any party, including Respondent.

VI. The effective date of this Order is the date that the Commissioner or his designee signs it.

DATED: Sept. 13, 2017


BASIL SEGGOS, COMMISSIONER
New York State Department of Environmental
Conservation

By: 
Keith Goertz
Regional Director Region 4

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order without further notice, waives its right to a hearing herein, and agrees to be bound by the terms, conditions and provisions contained in this Order.

City of Troy, Respondent

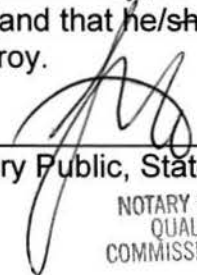
By (Signature): 

Title: Mayor

Date: 08-16-2017

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

On the 14th day of August in the year 2017, before me, the undersigned, personally appeared (Full name) Wm. Patrick Madden, personally known to me who, being duly sworn, did depose and say that he/she/they reside at (Full mailing address) 433 River Street, Suite 500, Troy, New York 12180 and that he/she/they is (are) is the Mayor of Troy, the Respondent described in and which executed the above instrument; and that he/she/they signed his/her/their name(s) thereto by the authority of the City of Troy.


Notary Public, State of New York

JAMES A. VARRUCCI
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN RENSSELAER COUNTY
COMMISSION EXPIRES 05/31/2019