

New York State Department of Environmental Conservation

Office of General Counsel, Region 4

1130 North Westcott Road, Schenectady, New York 12306-2014

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Joe Martens
Commissioner

CERTIFIED - RETURN RECEIPT REQUESTED

7013 1090 0002 3365 0686

September 11, 2014

Mr. Jon E. Fields
Director – Field Environmental
Enterprise Terminals & Storage LLC
248 Maple Avenue
Selkirk, New York 12158

Re: Order of Consent
R4-2014-0820-139

Dear Mr. Fields:

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

This will also acknowledge receipt of \$5000 the civil penalty pursuant to Paragraph I.

Sincerely,



Richard Ostrov
Regional Attorney
Region 4

Enclosure

cc: G. McPherson
M. Ellis

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the
Violations of Article 19
of the Environmental
Conservation Law of the
State of New York by:

ORDER ON
CONSENT

Enterprise Terminals & Storage LLC

File No.
R4-2014-0820-139

Respondent

WHEREAS:

1. Pursuant to Environmental Conservation Law ("ECL") Article 19, the Department of Environmental Conservation ("Department") has jurisdiction over matters concerning air resources and pollution.

2. Respondent, Enterprise Terminals & Storage LLC, 68 Maple Avenue, Selkirk, New York 12158, owns and operates a propane gas pipeline that runs through Albany County ("piepline").

3. On August 13 and 14, 2014, numerous residents within the vicinity of the pipeline were subject to the extensive odors resulting from a facility near the pipeline used to add mercaptan. Mercaptan is added to the propane gas to give it a rotten egg smell for safety reasons.

Part 211 Air Violation

4. Regulations at 6 NYCRR 211.1 provide that: "No person shall cause or allow emissions of air contaminants to the outdoor atmosphere of such quantity, characteristic or duration which are injurious to human, plant or animal life or to property, or which unreasonably interfere with the comfortable enjoyment of life or property. Notwithstanding the existence of specific air quality standards or emission limits, this prohibition applies, but is not limited to, any particulate, fume, gas, mist, odor, smoke, vapor, pollen, toxic or deleterious emission, either alone or in combination with others."

5. Respondent violated 6 NYCRR 211.1 by the release of mercaptan at excessive levels on August 13 and 14, 2014 that unreasonably interfered with the comfortable enjoyment of life.

Civil Penalties

6. 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; or any order except an order directing such person to pay a penalty by a specified date issued by the commissioner 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.

Waiver of Hearing

7. Respondent hereby affirmatively waives its right to a hearing in the manner provided by law, consent to the issuance and entry of this Order and agree to be bound by the terms, provisions, and conditions contained herein.

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

I. In respect of the aforesaid violations, a civil penalty in the amount of FIVE THOUSAND DOLLARS (\$5,000) is hereby assessed against Respondent for the violations cited in the Order on Consent.

II. For the purpose of insuring compliance with this Order, duly authorized representatives of this Department shall be permitted access to the site in question in order to inspect and/or require such tests as may be deemed necessary to determine the status of Respondent's compliance herewith.

III. The effective date of this Order shall be the date upon which it is signed on behalf of the Department.

IV. Respondent shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless 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.

V. Compliance with the terms and conditions of this Order shall be in full settlement of the violation set forth in this Order.

Rotterdam, New York
September 10, 2014

JOSEPH MARTENS
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

BY: 
Keith Goertz
ACTING REGIONAL DIRECTOR – REGION 4

CONSENT BY RESPONDENT

Respondent hereby consents to the issuance and entry of the foregoing Order, waives its right to a hearing herein as provided by law, and agrees to be bound by the provisions, terms and conditions contained herein.

By: 

Enterprise Terminals & Storage LLC

Title: Group Sr. Vice President

Date: 9/3/2014

STATE OF Texas
COUNTY OF HARRIS

On the 3rd day of September in the year 2014, before me, the undersigned,

personally appeared Graham Bacon personally known to me who, being duly sworn,
(Full name)

did depose and state that the corporate offices for he/she/they reside at
1100 Louisiana, P.O. Box 4324, Houston, TX 77210
(Full mailing address)

and that he/she/they is (are) the
Group Sr. Vice President of Operations
(President or other officer or director or attorney in fact duly appointed)

of the Enterprise Terminals & Storage LLC
(Full legal name of corporation)

the corporation 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 board of directors of said corporation.


Notary Public, State of Texas
Certificate No. 669495-4

