

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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CERTIFIED - RETURN RECEIPT REQUESTED
7017 1070 0001 0125 8497

July 9, 2018

John Ng, President
Hudson Valley Fish Farm, Inc.
4269 U.S. Route 9
Hudson, NY 12534

Re: Order on Consent
R4-2017-0720-224M

Dear Mr. Ng:

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

This will also acknowledge receipt of \$2,000 the civil penalty pursuant to Paragraph I.

Sincerely,



Stephen Repsher
Assistant Regional Attorney
Region 4

Enclosure

ec: D. Thorsland
J. Malcolm



Department of
Environmental
Conservation

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

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-

ORDER ON CONSENT
R4-2017-0720-224M

Hudson Valley Fish Farm, Inc.
4269 U.S. Route 9
Hudson, NY 12534

Respondent.

WHEREAS:

Jurisdiction

1. The Department of Environmental Conservation (“Department”) is an agency of the State charged with responsibility for the protection of water resources of the State, pursuant to ECL Article 17, and the rules and regulations promulgated thereunder at 6 NYCRR, Part 750, *et seq.*
2. Respondent, Hudson Valley Fish Farm, Inc., located in Greenport, New York, raises Pacific Salmon in a fish farm facility (“facility”). The facility has a SPDES permit (NY 0282367) (DEC #4-1040-00002/00006) issued on May 1, 2015 pursuant to 6 NYCRR 750-1.4(a).
3. Respondent is a person as defined by ECL § 17-105(1).

Violations

4. Respondent is subject to Order No. R4-2017-1115-274 (“Order”) and its associated Schedule of Compliance (“Schedule”), effective September 5, 2017.
5. On May 30, 2018, Respondent requested extensions of the deadlines in the Order’s Schedule.
6. The requested extensions will cause Respondent to fail to meet the Schedule’s original milestones.

Waiver of Hearing

7. 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 it agrees to be bound by the terms, provisions and conditions contained herein.

Civil Penalty

8. ECL § 71-1929(1) provides that: "A person who violates any of the provisions of . . . article 17, or the rules, regulations, orders or determinations of the commissioner promulgated thereto or the terms of any permit issued there under, shall be liable to a penalty of not to exceed thirty-seven thousand five hundred dollars per day for each violation, and, in addition thereto, such person may be enjoined from continuing such violation as hereinafter provided."

NOW, being duly advised and having considered this matter, it is **ORDERED THAT:**

I. **Civil Penalty.** With respect to the Order's violations, the amount of TWO THOUSAND DOLLARS (\$2,000) is assessed against the Respondent. This penalty shall be paid to the Department by company or bank check made payable to "NYS Department of Environmental Conservation" at the time this Modified Order is signed, notarized, and returned to the Department. Payment of this portion of the civil penalty shall not in any way alter Respondent's obligation to complete performance under the terms of the Modified Order.

II. **Schedule of Compliance.** Respondent shall comply with the terms and conditions of this Order, including the attached Schedule of Compliance, and any plans approved pursuant thereto are incorporated into this Order and are enforceable hereunder. Any records submitted to the Department shall include the owner's name, facility name and address, contact name, and phone number.

III. **Settlement.** This Order settles all violations identified herein as of the effective date of the Order.

IV. **Binding Effect.** This Order is binding upon the Respondent, its agents, employees, successors, assigns and to all persons and firms, and corporations acting under or controlled by it.

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

VI. **Indemnification.** 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 the provisions hereof by Respondent, its directors, officers, employees, agents, successors or assigns.

VII. **Modification.** 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, such change to be made only upon written agreement of the parties.

VIII. **Access.** Respondent shall allow duly authorized representatives of the Department access to the facility without prior notice, at such times as may be desirable or necessary for the Department to inspect and determine the status of Respondent's compliance with this Order, Department regulations, and/or the ECL and applicable federal regulations.

IX. **Effective Date.** The effective date of this Order shall be the date upon which it is signed on behalf of the Department. The Department will provide Respondent with a fully executed copy of this Order as soon as practicable thereafter.

X. **Scope.** Except as specifically provided in this Order, nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting:

A. Any legal or equitable rights or claims, actions, proceedings, suits, causes of action or demands whatsoever that the State or Department may have against Respondent for any violations not cited in this Order on Consent.

B. Any legal or equitable rights or claims, actions, proceedings, suits, causes of action or demands whatsoever that the State or Department may have against anyone other than Respondent for any other violations of the ECL, rules or regulations promulgated thereunder;

C. The Department's right to enforce this Order against Respondent, its officers, directors, and employees, should Respondent fail to fulfill any of the Order's terms or provisions;

D. Whatever right the Department may have to bring any action or proceeding against Respondent and/or any of Respondent's directors, officers, employees, agents, successors, and assigns with respect to claims for natural resource damages; and

E. Respondent's right to assert all available defenses to any claims, actions, proceedings, suits, causes of actions or demands made or commenced by the State or the Department; provided however, that Respondent waives all legal or equitable rights, claims, actions, proceedings, appeals, suits, causes of action, defenses or demands whatsoever that it may have to a judicial review of the validity and binding effect of this Order and whether or not this Order has been entered into voluntarily by Respondent.

XI. Review of Submitted Documentation. 1. All documents which Respondent must submit pursuant to this Order are subject to Department approval.

2. The Department shall review each of Respondent's submittals pursuant to this Order to determine whether it was prepared, and whether the work performed 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 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 the Department's stated reasons for disapproving the initial submittal.

3(b). After receipt of a revised submittal, the Department shall notify Respondent in writing of its approval or disapproval. If the revised submittal is not approvable as submitted, the Department, at its option, may disapprove it or may approve it on condition that Respondent accept such modifications as may be specified by Department to make it approvable. If Respondent does not accept such modifications, the revised submittal will be disapproved. If the Department disapproves the revised submittal, Respondent shall be in violation of this Order. If the Department approves the revised submittal, it shall be incorporated into and become an enforceable part of this Order.

4. 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, or as a result of reviewing any other data or facts, that further work is necessary. The Department agrees that any

modifications it specifies will be reasonable and consistent with customary engineering standards.

XII. **Communications.** Communications shall be sent to:

For Department:

New York State Department of Environmental Conservation
Region 4
Attn: Regional Engineer
1130 North Westcott Road
Schenectady, NY 12306

For Respondent:

Hudson Valley Fish Farm, Inc.
Attn: John Ng
4269 U.S. Route 9
Hudson, NY 12534

DATED: Rotterdam, New York
July 9, 2018

Basil Seggos
Commissioner
New York State Department of
Environmental Conservation

BY:



Keith Goertz
Regional Director
Region 4

CONSENT BY RESPONDENT

Respondent, Hudson Valley Fish Farm, Inc., hereby consents to the issuing and entering of this Order, waives its rights to notice and hearing herein and agrees to be bound by the provisions, terms and conditions contained herein.

SIGNED: [Signature]

PRINTED: John Ng

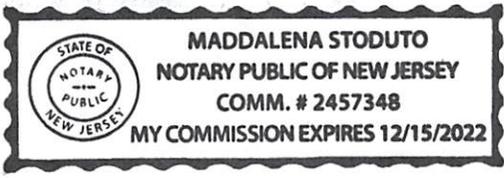
DATE: July 4th, 2018

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

On the 4th day of July in the year 2018, before me, the undersigned, personally appeared JOHN NG, personally known (Full name)

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 s/he executed the same in his/her capacity, and that by his/her signature on said instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

[Signature]
Notary Public
Qualified in the County of: Hudson
My Commission Expires: 12-15-2022



SCHEDULE OF COMPLIANCE

1. **By July 31, 2018**, Respondent shall advise the Department (“DEC”) as to how it intends to proceed with its current water withdrawal permit or accept the terms of the currently-issued version and provide a schedule for compliance with the monitoring/leak detection requirements.
2. **By September 28, 2018**, Respondent shall conduct a comprehensive performance evaluation (CPE) of the Drum Filter backwash. The evaluation shall include alternatives, including but not necessarily limited to:
 - discharging the material to the Town of Greenport Waste Water Treatment Plant;
 - composting the solids on the site property; or
 - marketing the material for agricultural/gardening purposes.

If Respondent selects on-site composting as the preferred alternative, Respondent shall submit a composting plan to DEC (Region 4 Division of Materials Management) for review; and, if required by the applicable regulations, the Respondent will also seek DEC approval of the composting plan.

3. **By July 31, 2018**, Respondent shall begin to operate the potable water pretreatment system (to reduce total dissolved solids/hardness in the Town water) as designed/fabricated by consultant.
4. **Effective immediately**, Respondent shall monitor the effluent stream treatment system performance.
 - a. **By October 31, 2018** Respondent shall engage a professional engineer licensed to practice in New York State to submit a letter report based on three (3) months’ monitoring results (to include data and recommendations) on the performance of the system and the corresponding quality of the SPDES-permitted effluent, along with recommendations for additional treatment, if necessary.
 - b. If DEC deems additional treatment is necessary, following review and comments on the above-referenced letter report, DEC may require Respondent to submit a proposal **by November 30, 2018** containing plans for additional treatment alternatives.
 - i. **Within 90 days** after receipt of DEC comments and approval of the selected treatment system, Respondent shall implement the additional treatment.