

New York State Department of Environmental Conservation

Office of General Counsel, Region 4

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

Phone: (518) 357-2048 • Fax: (518) 357-2087

Website: www.dec.ny.gov



Joe Martens
Commissioner

CERTIFIED - RETURN RECEIPT REQUESTED

7012 3050 0000 4246 2637

March 28, 2014

Mr. Bob Dupuis
J.P. Noonan Transportation, Inc.
415 West Street
P.O. Box 400
West Bridgewater, NY 02379-0400

Re: Order on Consent
R4-2014-0130-16

Dear Mr. Dupuis:

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

This will also acknowledge receipt of \$8,220 for Natural Resources Damages pursuant to Paragraph II.

Sincerely,

Karen S. Lavery
Assistant Regional Attorney
Region 4

Enclosure

cc: S. Brooks
A. Loguidice

STATE OF NEW YORK:
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Violation of
the Navigation Law Article 12

- by -

ORDER ON CONSENT
File No. R4-2014-0130-16

J.P. Noonan Transportation, Inc.
415 West Street
P.O. Box 400
West Bridgewater, NY 02379-0400

Respondent

WHEREAS:

1. New York Department of Environmental Conservation (“DEC”) has administrative jurisdiction to abate and prevent the pollution of water of the State pursuant to Article 12 of the Navigation Law.
2. The Commissioner of Environmental Conservation (“the Commissioner”) of the DEC is the designated trustee for New York State’s (“the State”) natural resources pursuant to Section 311 of the Federal Water Pollution Control Act, a/k/a the Clean Water Act (“CWA”), 33 U.S.C. Section 1321(f)(5).
3. The Department also carries out the State’s role as trustee for natural resources pursuant to, e.g., New York Environmental Conservation Law Section 1-0101, 3-0301, and 15-0601 and Article 12 of the New York Navigation Law (e.g. NL Section 170).
4. Respondent, J.P. Noonan Transportation, Inc., owns and operates a petroleum transportation company with an office located at 415 West Street, West Bridgewater, Massachusetts.
5. Section 12-173 of the Navigation Law provides that “*The discharge of petroleum is prohibited.*”

Spill Number 1215552

6. On February 13, 2013, a petroleum delivery truck operated by Respondent’s employee overturned on Route 7 in the Town of Hoosick Falls, discharging petroleum into Shingle Hollow Brook, a protected stream which connects with the Hoosick River. The truck was hauling 8,500 gallons of gasoline and 1,000 gallons of diesel fuel in its tanker and an unknown amount of fuel in the

tractor's saddle tanks. Over 650 gallons of gas/oil/fuel were skimmed off the water downstream and additional gas/oil/fuel was captured in boom and pads.

7. Respondent immediately hired a private company which provided response and remediation services and deployed booms and a vacuum truck to attempt recovery of the product, clean-up of which lasted for approximately five months.

8. The release of petroleum into Shingle Hollow Brook impacted the creek and all the services it provides for an estimated length of 1.65 miles. This section was a very high quality trout nursery.

9. The death of the fish and other aquatic organisms that likely died as a result of the petroleum spill caused by Respondent's actions therefore constitutes an injury to the natural resources of New York State.

10. The discharge of petroleum into Shingle Hollow Brook is a violation of Section 12-173 of the Navigation Law.

Civil Penalty

11. Section 12-192 of the Navigation Law provides for a civil penalty of up to \$25,000 per day for violations of any provisions of Article 12 of the Navigation Law. If the violation is of a continuing nature each day during which it continues shall constitute an additional, separate and distinct offense.

Waiver of Hearing

12. 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. Respondent shall sign and notarize this Order within twenty-one (21) days and submit the original to:

Karen S. Lavery, Esq.
NYS Department of Conservation
1130 North Westcott Road
Schenectady, NY 12306
Phone: (518) 357-2048
Fax: (518) 357-2087
Email: kslavery@gw.dec.state.ny.us

With copy to:

Andrea D. Loguidice, Esq.
NYS Department of Conservation
Office of General Counsel
625 Broadway, 14th Floor
Albany, NY 12233
Phone: (518) 402-9507
Fax: (518) 402-9018
Email: adloguid@gw.dec.state.ny.us

II. Respondent shall pay Natural Resources Damages in the amount of EIGHT THOUSAND TWO HUNDRED TWENTY DOLLARS (\$8,220) relating to Spill Number 1215552. Payment shall be by certified bank check made payable to the New York State Department of Environmental Conservation – NRDAR Fund and should contain Spill Number 1215552 in the memo line.

Checks shall be mailed to:

Andrea D. Loguidice, Esq.
NYS Department of Conservation
Office of General Counsel
625 Broadway, 14th Floor
Albany, NY 12233
Phone: (518) 402-9507
Fax: (518) 402-9018
Email: adloguid@gw.dec.state.ny.us

With copy to:

Karen S. Lavery, Esq.
NYS Department of Conservation
1130 North Westcott Road
Schenectady, NY 12306
Phone: (518) 357-2048
Fax: (518) 357-2087
Email: kslavery@gw.dec.state.ny.us

III. The provisions of this Order shall be deemed to bind Respondent, its officers, directors, agents, employees, contractors, successors and assigns, and all persons, firms and corporations acting under it.

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

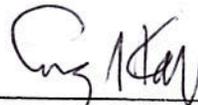
V. The terms of this Order shall not be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

VI. 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.

Dated: 3/27, 2014
Rotterdam, New York

Joseph J. Martens
Commissioner
New York State Department of
Environmental Conservation

BY:



Eugene J. Kelly
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.

J.P. Noonan Transportation, Inc.

BY: [Signature]

TITLE: Director of Safety

DATE: 3/24/14

MASSACHUSETTS

STATE OF ~~NEW YORK~~)

)ss.:

COUNTY OF Plymouth)

On the 24th day of March in the year 2014 before me, the undersigned, a Notary Public in and for the State, personally appeared Robert H. Dupuis 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: Plymouth

My Commission Expires: 05/20/2020

