

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

CERTIFIED - RETURN RECEIPT REQUESTED
7016 0340 0000 4616 5881

December 19, 2017

Bernie Sheil
Compliance Manager
North Albany Terminal Company, LLC
8235 Forsyth Blvd., Suite 400
Clayton, MO 63105

Re: Order on Consent
R4-2017-1024-256

Dear Mr. Sheil:

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

This will also acknowledge receipt of \$9000 the civil penalty pursuant to Paragraph I.

Sincerely,



Stephen Repsher
Assistant Regional Attorney
Region 4

Enclosure

ec: D. Welsted

STATE OF NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Violations of Article 19
of the Environmental Conservation Law
of the State of New York and Title 6 of the
Official Compilation of the Codes, Rules, and
Regulations of the State of New York

ORDER ON CONSENT
File No. R4-2017-1024-256

-by-

North Albany Terminal Company LLC
8235 Forsyth Blvd., Suite 400
Clayton, MO 63105,

Respondent.

WHEREAS:

Jurisdiction

1. The New York State Department of Environmental Conservation (the “Department” or “DEC”) is the State agency with jurisdiction over the environmental law and policy of the State pursuant to §3-0301 of the Environmental Conservation Law (“ECL”). Specifically, the Department is and has been responsible for the protection of air resources of the State pursuant to ECL Article 19 and the rules and regulations promulgated thereunder.

Respondent

2. Respondent owns a petroleum bulk storage facility known as the North Albany Terminal Co. – Glenmont Terminal, located at 552 River Road in Glenmont, NY, pursuant to Clean Air Act Title V facility permit number 4-0122-00052/00020 (“Permit”), with an effective date of April 3, 2016.

3. Respondent is a person as defined in and 6 NYCRR § 200.1(bi).

Violations

4. During a routine inspection of Respondent’s facility by Department staff conducted on September 20, 2017, the Department determined that Respondent had failed to timely submit required annual and semi-annual Compliance Certification Reports.

5. Permit Condition No. 5, and regulation 6 NYCRR § 201-6.4(c)(3)(ii) require submission of semi-annual Compliance Certification Reports to the Department.

6. Permit Condition No. 6, and regulation 6 NYCRR § 201-6.4(e) require submission of semi-annual Compliance Certification Report to the Department.

7. Respondent's failure to timely submit semi-annual Compliance Certification Reports for the periods April 3, 2016 through June 30, 2016; July 1, 2016 through December 31, 2016; and January 1, 2017 through June 30, 2017; each constitute violations of Permit Condition No. 5, and regulation 6 NYCRR § 201-6.4(c)(3)(ii).

8. Respondent's failure to timely submit an annual Compliance Certification Report for the period April 3, 2016 through December 31, 2016, is a violation of Permit Condition No. 6, and regulation 6 NYCRR § 201-6.4(e).

Civil Penalty

9. ECL Section 71-2103 provides for a civil penalty of not less than \$500 and not more than \$18,000 for each violation of Article 19 or any code, rule, or regulation promulgated thereto.

Waiver of Hearing

10. Respondent has affirmatively waived the right to notice and hearing in the manner provided by law, has consented to the issuing and entering of this Order, and agrees to be bound by the terms, provisions and conditions contained therein.

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

I. **Civil Penalty.** Respondent is hereby assessed a civil penalty in the amount of NINE THOUSAND DOLLARS (\$9,000) for the violations recited in this Order. Payment of the civil penalty is due upon the return of a signed and notarized copy of this Order to the Department. The civil penalty shall be paid by bank check made payable to the NYS DEC.

II. **Binding Effect.** The provisions of this Order shall be deemed to bind Respondent, its agents, employees, and all persons, firms, corporations acting under or controlled by it.

III. **Communications.** All communications required herein shall be made to:

For the Department:

Department of Environmental Conservation
Region 4

1130 North Westcott Road,
Schenectady, NY 12306,
Attn: Regional Engineer;

For the Respondent:

Bernard Sheil, Compliance Manager
North Albany Terminal Company Co.
Glenmont Terminal
552 River Road
Glenmont, NY 12077

IV. **Access.** Respondent shall allow duly authorized representatives of DEC access to the facilities without prior notice, at such times as may be desirable or necessary for DEC to inspect and determine the status of Respondent's compliance with this Order and the ECL.

V. **Summary Abatement.** 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. **Indemnification.** Respondent shall indemnify and hold harmless the Department, the State of New York, and their representatives and employees for all claims, suits, 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.

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. **Schedule of Compliance.** The attached Schedule of Compliance is incorporated into the Order on Consent.

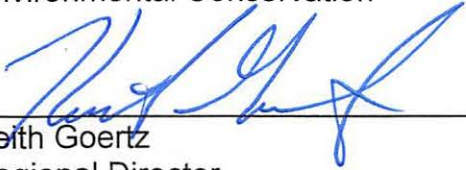
IX. **Effective Date.** The effective date of this Order shall be the date it is signed by the Department. The Department will provide Respondent a fully executed copy of this Order as soon as practicable following the effective date of this Order.

X. **Termination.** This Order shall terminate upon the Department's determination that Respondent has complied with all the requirements of this Order.

DATED: Rotterdam, New York
December 19, 2017

Basil Seggos
Commissioner
New York State Department of
Environmental Conservation

BY:



Keith Goertz
Regional Director
Region 4

SCHEDULE OF COMPLIANCE

- 1) Within thirty (30) days of the effective date of this Order, Respondent shall submit all late and outstanding Annual and Semi-Annual Compliance Certification Reports to the Department; specifically:
 - a. Semi-annual Compliance Certification Reports for the periods April 3, 2016 through June 30, 2016; July 1, 2016 through December 31, 2016; and January 1, 2017 through June 30, 2017; and
 - b. Annual Compliance Certification Report for the period April 3, 2016 through December 31, 2016.