

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
7016 0340 0000 4616 7915

November 14, 2016

Thomas Van Vranken
Norlite LLC
628 S. Saratoga Street
Cohoes, NY 12047

Re: Order on Consent
R4-2016-0718-127

Dear Mr. Van Vranken:

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

This will also acknowledge receipt of \$17,500 the civil penalty pursuant to Paragraph I.

Sincerely,

Karen S. Lavery



Karen S. Lavery
Assistant Regional Attorney
Region 4

Enclosure

ec: G. McPherson



Department of
Environmental
Conservation

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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

-by-

Order on Consent
File No. R4-2016-0718-127

Norlite LLC
628 S. Saratoga St
Cohoes, NY 12047

Respondent

WHEREAS:

JURISDICTION

1. Pursuant to Environmental Conservation Law ("ECL") Article 19, the Department of Environmental Conservation ("Department" or "DEC") is the State agency which has jurisdiction over the environmental law and policy of the State pursuant to, *inter alia*, §3-0301 of the ECL.
2. Pursuant to ECL Article 19, the New York State Department of Environmental Conservation has administrative jurisdiction to safeguard the air resources of the state from pollution.

RESPONDENT

3. Respondent, Norlite LLC., is a stone product manufacturer with a location at 628 S. Saratoga St., Cohoes, New York, ("facility")
4. Respondent operates the facility pursuant to a 6 NYCRR Part 201-6 Title V permit (#4-0103-00016/00048) that contains general and special conditions ("permit").
5. Respondent is a "person" as defined at 6 NYCRR 200.1(bi).
6. On May 11, 2016, Department staff inspected the facility.

VIOLATIONS

7. Permit condition No. 25 of Respondent's Title 5 Permit provides that "...*The permittee will conduct observations of visible emissions from the emission unit, process, etc to which this condition applies at the monitoring frequency stated below while the process is in operation...*" Permit condition states *Monitoring Frequency: DAILY.*"
8. Respondent violated Permit condition No. 25 of Respondent's Title 5 Permit by failing to provide records of these daily observations for March 2, 9, 15, 16, 17, 24, 28, and 29 for 2016. Respondent also failed to provide records for May 10 and 11, 2016.
9. Permit Condition No. 32 of Respondent's Title 5 Permit provides that "*The facility will conduct daily observations of visible emissions from the primary plant rock crusher which should not exceed 15%...*"
10. Respondent violated Condition No. 32 of Respondent's Title 5 Permit by failing to perform daily observations on the primary crusher.
11. Permit Condition No. 53 of Respondent's Title 5 Permit provides that "*To maintain control room operator qualification under a site-specific, source developed and implemented training program as provided by 40 CFR 63.1206(c)(6)(v), control room operators must complete an annual review or refresher course covering, at a minimum, the following topics:*
- *update of regulations*
 - *combustor operation ,including startup and shutdown procedures, waste firing, and residue handling*
 - *inspection and maintenance*
 - *responses to malfunctions or conditions that may lead to malfunction.*"
12. Respondent violated Condition No. 53 of Respondent's Title 5 Permit by failing to include training to control room operators on responses to malfunctions or conditions that may lead to malfunctions.
13. Permit Condition No. 41 of Respondent's Title 5 Permit provides that "*During malfunctions, the automatic waste feed cutoff requirements of 40 CFR 63.1206(c)(3) continue to apply, except for exceedances as described in 40 CFR 63.1206(c)(3)(v) and (vi). If a Subpart EEE emission standard monitored by a CEMS or COMS or an operating limit under 40 CFR 63.1209 is exceeded, the automatic waste feed cutoff system must immediately and automatically cutoff the hazardous waste feed, except as provided in the ramping down of the waste feed provisions in 40 CFR 63.1206(c)(3)(viii). If the malfunction itself prevents immediate and automatic cutoff of the hazardous waste feed, however, the facility must cease feeding hazardous waste as quickly as possible.*"

14. From April 30, 2016 at 6:52 a.m. until May 3, 2016 at 1:52 p.m., Respondent failed to cut-off hazardous waste to Kiln #2 while the flue gas flow rate exceeded the permit limit. Respondent reported that the exceedance occurred as a result of a malfunction of the Program Logic Controller. Upon further questioning, it was brought to the Department's attention that the probe to the old sensor for measuring the flue gas flow was programmed into the system instead of the probe for the new sensor installed in 2015. This resulted in 7 hours of non-compliance.

15. Respondent violated Condition No. 41 of Respondent's Title 5 Permit by operating the light weight aggregate kilns without a functioning system that immediately and automatically cuts off the hazardous waste feed. Operation of the light weight aggregate kilns without a functioning system that immediately and automatically cuts off when the hazardous waste feed when any of the operating parameter limits are exceeded whenever hazardous waste remains in the combustion chamber.

CIVIL PENALTY

16. Section 71-2103 generally provides for a civil penalty of not less than \$375 and not more than \$18,000 for each violation of Article 19 or any code, rule or regulation which was promulgated thereto.

WAIVER OF HEARING

17. 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. With respect to the aforesaid alleged violations, a civil penalty in the amount of THIRTY ONE THOUSAND FIVE HUNDRED DOLLARS (\$31,500) of which SEVENTEEN THOUSAND FIVE HUNDRED DOLLARS (\$17,500) shall be payable to the New York State Department of Environmental Conservation by money order, or certified check at the time this Order is signed, notarized and returned to the Department.

The balance FOURTEEN THOUSAND DOLLARS (\$14,000) shall be suspended so long as Respondent shall comply with the Schedule of Compliance. Payment of the above penalties shall not in any way alter Respondent's obligation to complete performance under the terms of this Order.

In the event that Respondent fails to comply with the requirements of this Order the entire suspended portion of the penalty shall become due and payable upon written notice to Respondent without prejudicing the Department from seeking further appropriate penalties for violations of this Order by Respondent.

II. Pursuant to ECL Section 71-0301, the Commissioner specifically reserves the right to exercise summary abatement authority.

III. This Order is binding upon the Respondent, its agents, employees, successors, assigns and to all persons and firms, and corporations acting subordinate thereto.

IV. All communications to the Department except where otherwise specifically directed should be sent to:

New York State Department
of Environmental Conservation
Region 4 - Air Division Attn: RAPCE
1130 North Westcott Road
Schenectady, New York 12306
518-357-2350

V. No change or modification to this Order shall be made or be effective except as may be specifically set forth in writing by the Commissioner or Regional Director. Such application shall be made to the Regional Director.

VI. 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 as may be deemed necessary to determine the status of Respondent's compliance herewith.

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

VIII. Respondent shall indemnify and hold the Department, the State of New York, and its 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 - employees, servants, agents, successors or assigns.

IX. 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 may have against Respondent for any other violations of the ECL, rules or regulations promulgated thereunder or permits issued thereunder;

B. Any legal or equitable rights or claims, actions, proceedings, suits, causes of action or demands whatsoever that the State may have against anyone other than Respondent, its agents, servants, employees, successors and assigns;

C. Whatever right the Department has to bring any action or proceeding against Respondent and/or any of Respondent's employees, servants, agents, successors, and assigns with respect to claims for natural resource damages; and

D. 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 he 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.

X. Compliance with the terms and conditions of this Order, including the Schedule of Compliance, shall be in full civil settlement of the violations in this Order.

DATED: *Nov 10*, 2016
Rotterdam, New York

Basil Seggos
Commissioner
New York State Department of
Environmental Conservation

BY:

A handwritten signature in black ink, appearing to read "Keith Goertz", written over a horizontal line.

Keith Goertz
Regional Director
Region 4

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order, waives its right to notice and hearing herein and agrees to be bound by the provisions, terms and conditions contained herein.

Norlite LLC

SIGNED: 

DATE: November 7, 2016

STATE OF Indiana

COUNTY OF Lake) ss.:

On the 7 day of November in the year 2016 before me, the undersigned, a Notary Public in and for the State, personally appeared Tita LaGrimas 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.

Terry A. Fish

Notary Public

Qualified in the County of: Lake

My Commission Expires: 9-26-2023



SCHEDULE OF COMPLIANCE

1) Effective immediately upon execution of this Order, Respondent shall perform the daily observations as outlined in permit conditions Nos. 25 and 32. Respondent shall submit to the Department quarterly certifications commencing on January 1, 2017 and continue through December 31, 2017 and shall be submitted no later than the 15th day of the month following the quarter. The failure to submit a timely certification or the failure to certify compliance with the permit conditions Nos. 25 and 35 shall be considered a violation of the Order on Consent.

2) Within 60 days of the execution of this Order, Respondent shall update their Control Operator annual refresher training materials to address responses to malfunctions and conditions that may lead to malfunctions.