

**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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December 21, 2018

George D. McHugh  
General Counsel  
Carver Companies  
494 Western Ave.  
Altamont, NY 12009

Re: Order on Consent  
R4-2018-1218-210  
Coeymans Recycling Center, LLC

Dear Mr. McHugh:

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

This will also acknowledge receipt of \$5,000 the civil penalty pursuant to Paragraph I.

Sincerely,



Stephen Repsher  
Regional Attorney  
Region 4

Enclosure

ec: V. Schmitt  
N. Baker  
J. Whitcomb  
B. Maglienti  
K. Kornak

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

In the Matter of Violations of the Environmental Conservation Law ("ECL") Articles 17 and 27, and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("6 NYCRR"),

**ORDER ON CONSENT**  
R4-2018-1218-210

-by-

Coeymans Recycling Center, LLC  
494 Western Turnpike  
Altamont, NY 12009,

Respondent.

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**WHEREAS:**

**JURISDICTION**

1. The New York State Department of Environmental Conservation ("Department") is and has been a Department of the State of New York charged with administration of the State Pollutant Discharge Elimination System ("SPDES"), pursuant to Article 17, Title 8 of the Environmental Conservation Law ("ECL"), Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("6 NYCRR") at Part 750.
2. Respondent, Coeymans Recycling Center, LLC ("CRC"), is a domestic limited liability company which owns the Coeymans Industrial Park, located at 40 Riverview Drive in the Town of Coeymans, County of Albany, State of New York.
3. Respondent CRC is a person as defined at 6 NYCRR § 750-1.2(a)(66).

**BACKGROUND**

4. On April 9, 2018, Department staff conducted an inspection of CRC's facility and observed that several large salt piles had been constructed, which CRC staff stated were intended for resale to municipal and commercial users.
5. Subsequent to the April 9, 2018 inspection, Department staff determined that due to the size of the salt piles, their intended use, and the potential for environmental impacts from runoff, the discharge from the salt piles into the waters of the State must be covered by an individual SPDES permit.
6. On May 1, 2018, Department staff e-mailed CRC facility staff to inform them that CRC was required to submit an application to obtain an individual SPDES permit.
7. On October 19, 2018, Department staff met with CRC staff and clarified that the individual SPDES permit was necessary, and that the Multi-Sector General Permit ("MSGP," Permit #NYR00F372) held by CRC did not authorize the discharge from the

salt piles.

8. On November 9, 2018, Department staff received CRC's initial individual SPDES application.

9. Upon review of CRC's submissions, Department staff issued Notices of Incomplete Application ("NOIA") on November 14, and November 26, 2018, outlining the need for additional information, which CRC responded to on November 15 and November 29, respectively.

10. On December 12, 2018, Department staff issued a third NOIA which, in addition to requesting further information, also informed CRC that receipt of additional salt prior to obtaining individual SPDES permit coverage would be considered a violation of the ECL.

11. On December 14, 2018, Department staff completed a follow-up site visit, and determined that site conditions persisted as they existed at the April 9, 2018 inspection.

### **VIOLATION**

12. ECL 17-0505 states that "[t]he making or use of an outlet point source discharging into the waters of the state, and the operation or construction of disposal systems, without a valid SPDES permit as provided by section 17-0701 or title 8 hereof are prohibited."

13. Respondent CRC violated ECL § 17-0505 by failing to timely submit an individual SPDES permit application and by continuing to receive and stockpile salt, as well as discharge to waters of the State, prior to the issuance of such a permit."

### **WAIVER OF HEARING**

14. Respondent has affirmatively waived its right to notice and hearing as provided by law, and has consented to the issuing of this Order, and has agreed to be bound by the provisions, terms and the conditions of this Order.

### **CIVIL PENALTY**

15. ECL § 71-1929(1) provides that: "A person who violates any of the provisions of, or who fails to perform any duty imposed by titles 1 through 11 inclusive and title 19 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**, having considered this matter and being duly advised, it is **ORDERED THAT:**

I. **Civil Penalty.** With respect to the Order's violations, the amount of NINE THOUSAND, FOUR HUNDRED DOLLARS (\$9,400) is assessed against the Respondent. FIVE THOUSAND DOLLARS (\$5,000) of the civil penalty shall be paid to

the Department by company or bank check(s) made payable to "NYS Department of Environmental Conservation" at the time this Order is signed, notarized, and returned to the Department. Payment of this portion of the civil penalty shall not in any way alter Respondents' respective obligations to complete performance under the terms of the Order.

The balance of the penalty, FOUR THOUSAND, FOUR HUNDRED DOLLARS (\$4,400), is suspended and shall not be payable, *provided that* Respondent fully complies with the requirements of this Order and its Schedule of Compliance in a timely fashion. If Respondent fails to comply with any such requirements, the entire suspended portion of the penalty shall become due and payable upon written notice to Respondent, in addition to appropriate penalties for any further violations of this Order.

II. **Schedule of Compliance.** Respondent shall comply with the terms and conditions of this Order, including all applicable items in the attached Schedule of Compliance. Any records submitted to the Department shall include the owner's name, facility name and address, contact name, and phone number. Respondent shall be authorized to continue to import and handle salt, as Respondent continues to work with Department staff through their respective permitting processes.

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 Respondent.

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 the 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. 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 submittal 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.

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

For Respondent:

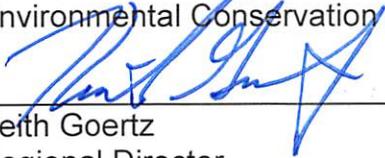
Coeymans Recycling Center, LLC  
Attn: Carver Laraway  
494 Western Turnpike  
Altamont, NY 12009

XIII. **Termination.** The Order shall terminate upon Respondent's full compliance, as determined by the Department, with the terms, provisions and conditions of this Order including its Schedule of Compliance.

DATED: December 21, 2018  
Rotterdam, New York

Basil Seggos  
Commissioner  
New York State Department of  
Environmental Conservation

BY:

  
\_\_\_\_\_  
Keith Goertz  
Regional Director

**CONSENT BY RESPONDENT**

Respondent 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.

Coeymans Recycling Center, LLC  
Authorized Representative

SIGNED: 

TITLE: MANAGING MEMBER

PRINTED: CARVEN LARAWA

DATE: 12/21/2018

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF Schenectady )

On the 21<sup>st</sup> day of December in the year 2018, before me, the undersigned, personally appeared CARVEN LARAWA, 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.

  
Notary Public

Qualified in the County of:  
My Commission Expires:

**GEORGE D. McHUGH**  
**Notary Public, State of New York**  
**Qualified in Albany County**  
**Reg. No. 02MC6003748**  
**Commission Expires March 9, 2022**

## SCHEDULE OF COMPLIANCE

1. **Effective immediately**, Respondent shall develop and implement good housekeeping procedures to minimize the exposure of salt and salt additives (including but not limited to dye and molasses) to precipitation and wind, as well as to prevent the migration of salt and salt additives from the storage area to the detention basins and waters of the State. These procedures must address, at minimum, the following operations:
  - Transfer operations between barges and the salt pile area;
  - Construction of salt piles;
  - Maintenance of maximum coverage of salt piles at all times;
  - Loading operations to delivery vehicles;
  - Salt spill cleanup procedures;
  - Mixture of salt with salt additives, including but not limited to dye and molasses;
  
2. **Effective immediately**, Respondent shall commence monitoring runoff in the existing detention basins (composite sample of equal amounts from the water in the basins and forebays) at least once per week after precipitation / runoff events for the below parameters. Monitoring and analysis shall be conducted per test procedures approved under 40 C.F.R. Part 136, and the results shall be retained on-site with a summary to be submitted along with Items #3 and #4 below. Any visible color from dyes or other additives, visible salt granules, or visible oil film or globules of grease in the basins will be considered a violation of the order.
  - Total Suspended Solids
  - Total Dissolved Solids
  - Settleable Solids
  - Oil & Grease
  - Chloride, Total
  - Cyanide, Free
  - Cyanide, Total
  - Color
  - COD
  
3. **Within ninety (90) days of the effective date of this Order**, Respondent shall submit an engineering report and schedule prepared by a professional engineer licensed in and by the State of New York that evaluates (at minimum) the items below and provides recommendations to be implemented under the individual SPDES permit for which Respondent has applied, or to be implemented to eliminate all discharges to waters of the State from the salt pile area, in which case no individual SPDES permit will be needed. Implementation of the recommendations in accordance with the schedule will become enforceable under this Order upon Department acceptance of the report.

### Salt Pile Management:

- Covering options such as construction of a permanent structure to house the salt piles and loading areas to eliminate all discharges to waters of the State or application of spray coating materials that would reduce contact with precipitation.
- Methods to reduce the time to construct the pile to minimize the periods that the

pile is uncovered.

- Methods to reduce exposure of salt to precipitation and wind during delivery truck loading operations, including but not limited to:
  - Removing cover at the working face just enough to unload the amount of salt needed for daily deliveries.
  - Establish and maintain the working face at the downwind end of the salt pile whenever feasible.
  - Changing silt pile geometry / layout to minimize the exposed working face.
- Measures to control how runoff enters the pond to increase retention time for settling and reduce short circuiting, including but not limited to berms, diversions or other conveyance system improvements.
- Setbacks or other controls to prevent salt from spilling into the pond either through sloughing of the pile or during loading/unloading operations.
- Structures such as berms, jersey barriers, or swales, to prevent stormwater runoff from adjacent areas from coming into contact with the salt pile.

#### Salt Storage Area Detention Pond Management:

- Feasibility and impact of detention pond storage capacity on effluent quantity and quality, including capacity necessary to eliminate all discharges to waters of the State.
- Detention pond discharge scenarios to optimize pond performance (i.e. more frequent discharges, adjusting pond levels to provide storage prior to a wet weather event vs. discharging during the event, etc.).
- Detention pond dewatering controls that will allow the pond to be discharged from different depths.
- A schedule to dredge the pond to remove settled pollutants and appropriate disposal options.

#### Salt Pile Brine Management:

- Feasibility of developing a beneficial use for brine or other mechanism to move offsite such that discharge would be reduced or eliminated.

4. Respondent CRC may continue to accept and store salt at CRC's facility, and shall submit interim progress reports every three (3) months from the effective date of this Order until an individual SDPES permit is issued for the salt piles or until a determination is made that an individual SPDES permit is not needed.

**NOTE:** Compliance with the terms and conditions of this Schedule of Compliance shall not be a defense to subsequent violations.