

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 3870

December 9, 2013

Ronald Schaefer
French Woods Summer Camp
1879 N University Drive
Coral Springs, FL 33071

Re: Order of Consent
R4-2013-1105-133

Dear Mr. Schaefer:

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

This will also acknowledge receipt of \$12,000 the civil penalty pursuant to Paragraph I.

Sincerely,

Richard Ostrov
Regional Attorney
Region 4

Enclosure

ec: M. Isaacson
K. O'Connor

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the
Violations of Article 17 of the
Environmental Conservation Law
and Title 6 of the Official
Compilation of Codes,
Rules and Regulations of
the State of New York,

Order on Consent

DEC Case
R4-2013-1105-133

- By-

Ronald Schaefer

Respondent.

WHEREAS:

JURISDICTION

1. The New York State Department of Environmental Conservation (DEC or Department) 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). In particular, DEC is and has been responsible for the protection of the water resources of the State, pursuant to ECL Article 17 and the rules and regulations promulgated there under at Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR), Part 750, et seq.
2. French Woods Performing Arts Camp, Inc., is a Florida corporation doing business in New York that owns and operates a residential performing arts summer camp located at 350 Bouchoux Brook Road, Hancock, Delaware, New York (“camp”).
3. Respondent, Ronald Schaefer, P.O. Box 770100, Coral Springs, FL 33071 is the permit holder for State Pollutant Discharge Elimination System (“SPDES”) permit #4-1236-00021/00001 (“permit”) that governs the operation of the waste water treatment system at French Woods Performing Arts Camp, Inc. and it authorizes the discharge of treated effluent to the South Pond which is used by the camp for recreational purposes.
4. The permit contains sampling milestones for determining compliance with its effluent discharge limits. The Respondent submits the sampling results to the Department each month in discharge monitoring reports (“DMRs”).

5. On October 25, 2012, a Notice of Violation was sent to the Respondent regarding the August 2012 annual inspection that included a list of permit effluent discharge limit violations from 2008 through 2012. Respondent's consultant replied to the Notice of Violation in December 2012 identifying improvements to facility's operation to improve the system's performance, including operating the phosphorus reduction system continuously from the start of the 2013 camp season.

6. In July 2013, Respondent's consultant contacted the Department regarding a proposed new wastewater treatment system for the facility because the sand filters have been too difficult to maintain.

Effluent Discharge Permit Limit Violations

7. ECL Section 17-0511 prohibits the use of point sources unless in compliance with all standards, criteria and limitations.

8. Respondent's DMRs for June 2011 to August 2013 contained the following violations of its permit effluent discharge permit limits:

<u>Parameter</u>	<u>Date</u>	<u>Limit</u>	<u>Actual Value</u>
Phosphorus, Total (as P)	8/2013	1.0 mg/l Daily Max	5.0 mg/l
Phosphorus, Total (as P)	7/2013	1.0 mg/l Daily Max	4.3 mg/l
Phosphorus, Total (as P)	8/2012	1.0 mg/l Daily Max	3.4 mg/l
Phosphorus, Total (as P)	7/2012	1.0 mg/l Daily Max	3.4 mg/l
Phosphorus, Total (as P)	7/2011	1.0 mg/l Daily Max	1.1 mg/l
Fecal Coliform	7/2013	200 No/100 ml 30 Day Geo	No sample
Fecal Coliform	6/2013	200 No/100 ml 30 Day Geo	No sample
Fecal Coliform	8/2012	200 No/100 ml 30 Day Geo	>6000 No/100 ml
Fecal Coliform	7/2013	400 No/100 ml 7 Day Geo	No sample
Fecal Coliform	6/2013	400 No/100 ml 7 Day Geo	No sample
Fecal Coliform	8/2012	400 No/100 ml 7 Day Geo	>6000 No/100 ml
Chlorine, Total Residual	6/2012	0.6 mg/l Daily Max	1.6 mg/l
BOD ₅	6/2011	20 mg/l Daily Max	21 mg/l
Solids, Suspended	6/2011	20 mg/l Daily Max	26 mg/l
Flow	7/2012	48,000 GPD 30 Day Avg	Blank ¹
pH	7/2012	6.5 – 8.5 SU Range	Blank

¹ The Flow and pH sampling results were not listed in the DMR although they were reported in the Wastewater Facility operation report.

9. Respondent's violations of his SPDES permit effluent limits and his failure to sample are violations of the permit and ECL Section 17-0511.

Waiver of Hearing

10. Respondent affirmatively waives its right to a hearing in the manner provided by law, consents to the issuance and entry of this Order on Consent and agrees 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. Civil Penalty

In respect of the aforesaid violations, a civil penalty in the amount of FIFTY EIGHT THOUSAND DOLLARS (\$58,000) is assessed against the Respondent for the above violations. Payment of TWELVE THOUSAND DOLLARS (\$12,000) of the civil penalty by certified or bank check shall be due with the return of the signed and notarized Order.

FORTY SIX THOUSAND DOLLARS (\$46,000) of the civil penalty is suspended conditioned on Respondent's compliance with the Order on Consent and Schedule of Compliance. Payment of the suspended penalty shall be due with fifteen (15) calendar days of the receipt by the Respondent of a notice of violation from the Department which sets out the violations of the Order. This provision shall not limit the Department's right to seek other remedies provided by law and the applicable regulations for violations of this Order on Consent and ECL Article 17 and regulations, respectively.

II. Settlement and Reservation of Rights

A. Upon completion of all obligations created in this Order, this Order settles only all claims for civil and administrative penalties concerning SPDES permit violations that pre-date the effective date of the Order and the violations described in the Motion for Summary Order.

B. Except as provided in Subparagraph II.A of this Order, nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting any of the civil, administrative, or criminal rights of the Department or of the Commissioner or his designee (including, but not limited to, nor exemplified by, the rights to recover natural resources damages and to exercise any summary abatement powers) or authorities with respect to any party, including Respondent.

III. Schedule of Compliance

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

IV. Communications

All communications required herein shall be made to:

Department- DEC Region 4, 1130 North Westcott Road, Schenectady, NY 12306, Attn: Regional Water Engineer.

Respondent - Ronald Schaefer, 1879 N. University Drive, Coral Springs, FL 33071

V. Access

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

VI. Indemnification

Respondent shall indemnify and hold DEC, New York State, and their representatives and employees harmless 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. Review of Submittals

A. 1. All documents which Respondent must submit pursuant to this Order are subject to Department approval.

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

b. After receipt of the revised submittal, the Department shall notify Respondent in writing of its approval or disapproval. If the revised submission 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 submission 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.

VIII. Binding Effect

The provisions of this Order shall inure to the benefit of and be binding upon the Department and Respondent.

IX. 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.

X. Entire Order

The provisions of this Order constitute the complete and entire Order issued to the Respondent concerning resolution of the violations identified herein. No term, condition, understanding or agreement purporting to modify or vary any term hereof shall be binding unless made in writing and subscribed by the party to be bound, pursuant to Paragraph IX of this Order. No informal oral or written advice, guidance, suggestion or comment by the Department regarding any report, proposal, plan, specification, schedule, comment or statement made or submitted by Respondent shall be construed as relieving Respondent of its obligations to obtain such formal approvals as may be required by this Order.

XI. Effective Date of Order

The effective date of this Order shall be the date it is signed by the Department.

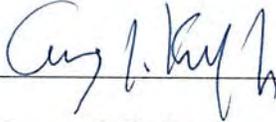
XII. Termination of Order

The Order shall terminate upon the Department's determination that Respondent has complied with all terms, provisions and conditions of the Order including the Schedule of Compliance.

DATED: 12/9, 2013
Rotterdam, New York

Joseph Martens
Commissioner
New York State Department of
Environmental Conservation

BY:



Eugene J. Kelly, Jr.
Regional Director
Region 4

CONSENT BY RESPONDENT

Respondent hereby consents to the issuance and entry of the foregoing Order, waives his rights to a hearing herein as provided by law, and agrees to be bound by the provisions, terms and conditions contained herein.

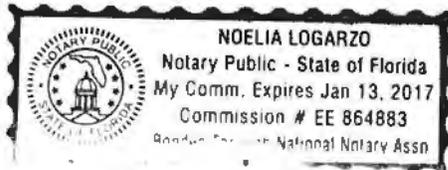
BY: Ronald B. Schaefer

TITLE: Pres

DATE: 11/22/13

STATE OF ~~NEW YORK~~ FLORIDA)
COUNTY OF Broward) ss.:

On the 22nd day of November in the year 2013 before me, the undersigned, a Notary Public in and for the State, personally appeared Ronald B. Schaefer - 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:
My Commission Expires:

Schedule of Compliance

1. The existing phosphorus removal system shall be operated continuously when the camp is operating, starting with the 2014 camp season. Prior to beginning of the 2014 season, Respondent Shall determine an appropriate dosing rate for lime slurry injection and submit an operating plan to the Department by May 1, 2014.
2. By December 1, 2014, Respondent shall submit to the Department for review and approval an engineering assessment prepared by a New York State license professional engineer addressing whether the facility's phosphorus removal system needs upgrading to ensure continuous compliance with the permit limits. The assessment shall also include detailed plans for any upgrade determined by the engineer to be necessary to ensure continuous compliance with the permit limit.
3. By no later than April 1, 2014, Respondent shall complete the construction of Department approved necessary upgrades to the facility and provide an engineering certification verifying completion according to Department approved plans.
4. Respondent shall take weekly samples for phosphorus and fecal coliform commencing on June 1, 2014 until the system ceases operation in 2014. The sampling shall be performed by an independent qualified professional and Respondent shall include the testing results in its DMRs and notify the Department and the Department of Health of any violations within 24 hours of receipt.
5. Respondent is liable for all violations of his permit and applicable ECL laws and regulations during the term of this Order notwithstanding compliance with this Schedule of Compliance.