

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of General Counsel, Region 4
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CONFIRMATION BY EMAIL ORDER RECEIVED

November 8, 2016

Kevin Bernstein, Esq.
Bond, Schoeneck & King
110 West Fayette Street
One Lincoln Center
Syracuse, NY 13202-1355
Bernstk@bsk.com

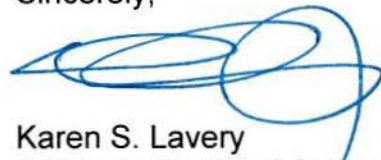
Re: Order of Consent
R4-2014-0131-17M2
SI Group, Inc.

Dear Mr. Bernstein:

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

This will also acknowledge receipt of \$37,125 the civil penalty pursuant to Paragraph I.

Sincerely,



Karen S. Lavery
Assistant Regional Attorney
Region 4

ec: D. Thorsland



Department of
Environmental
Conservation

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Alleged
Violations of Environmental
Conservation Law Article 17

-by-

ORDER ON CONSENT
File No. R4-2014-0131-17M2

SI Group, Inc.
1000 Main Street
Rotterdam, NY 12150

Respondent

WHEREAS:

1. The Department of Environmental Conservation ("Department" or "DEC") is an agency of the State charged with jurisdiction over the protection of water quality of the State pursuant to Article 17 of the Environmental Conservation Law ("ECL") and the rules and regulations promulgated thereto.
2. Respondent, SI Group, Inc., owns and operates a manufacturing facility for synthetic phenolics resins and alkyl phenols located at 1000 Main Street, Rotterdam Junction, New York ("facility"). The facility operates a wastewater treatment plant ("WWTP") which discharges wastewater pursuant to a State Pollutant Discharge Elimination System ("SPDES") permit No. NY0005801.
3. Respondent is a person as defined at ECL §17-0105(1).
4. Respondent is required under its SPDES permit to submit discharge monitoring reports ("DMRs") to the Department on a monthly basis.
5. ECL Section 17-0511 provides that "*the use of existing or new outlets or point sources, which discharge sewage, industrial waste or other wastes into this state is prohibited unless such use is in compliance with all standards, criteria, limitations, rules and regulations promulgated or applied by the department pursuant to this article.*"

6. On December 20, 2011, Respondent entered into an Order on Consent (R4-2011-1116-146), which required the preparation and implementation of a Comprehensive Performance Evaluation Report (“CPE”) by December 31, 2012.
7. The CPE was approved by the Department on September 20, 2012.
8. On January 17, 2013, Respondent entered into a modification (R4-2011-1116-146M) of the prior order on consent (R4-2011-1116-146) which modified the date for the implementation of the approved CPE to be on or before December 31, 2013.
9. On March 19, 2014, Respondent entered into an order on consent (R4-2014-0131-17) which required Respondent to submit a plan identifying all outstanding work related to the CPE and a schedule to complete the outstanding work by July 1, 2014. The approved CPE included two conceptual scenarios related to the Diversion Tank. Based on discussions at a meeting with the Department on March 8, 2016 and as requested in the Department’s letter dated April 6, 2016, Respondent submitted an acceptable WWTP Upgrade Project Work Plan dated May 2016, which outlined the selected alternative related to the Diversion Tank.
10. On October 20, 2014, Respondent entered into a modification (R4-2014-0131-17M) of the prior Order on Consent (R4-2014-0131-17). The modified Order on Consent required a complete flow and load study including a schedule for implementation within 30 days from the receipt of a written request from the Department. The Department request was dated October 22, 2014 and after providing an additional 30 days as allowed by the modified Order, the required submittal date was December 22, 2014. Respondent’s December 22, 2014 submission of the flow and load study report and schedule of implementation was not approvable and subsequent submissions indicate the limitations of the flow and load model and its limited utility to WWTP staff.
11. Respondent reported the following permit effluent limit violations in its monthly discharge monitoring reports (“DMRS”) for Outfall No. 01A:
 1. Parameter: 1,1,3,3-Tetramethyl Butyl Phenol
Permit Limit: 0.033 lb./day (Daily Maximum)

January 2014: 0.038 lb./day
 2. Parameters: Total Phenols
Permit Limit: 0.019 lb./day (Daily Average)

February 2014: 0.022 lb./day
 3. Parameter: 3-methylphenol & 4-methylphenol (combination)
Permit Limit: 0.038 lb./day (Daily Average)

March 2014: 0.41 lb./day

4. Parameter: 3-methylphenol & 4-methylphenol (combination)
Permit Limit: 0.066 lb./day (Daily Maximum)

March 2014: 1.5 lb./day

5. Parameter: 2-methylphenol (o-Cresol)
Permit Limit: 0.019 lb./day (Daily Average)

March 2014: 0.035 lb./day

6. Parameter: 2-methylphenol (o-Cresol)
Permit Limit: 0.033 lb./day (Daily Maximum)

March 2014: 0.087 lb./day

7. Parameter: pH
Permit Limit: 9 s.u. (Daily Maximum)

February 2015: 9.2 s.u.

8. Parameter: BOD
Permit Limit: 200 lb./day (Daily Maximum)

July 2015: 268 lb./day

9. Parameter: pH
Permit Limit: 9 s.u. (Daily Maximum)

February 2015: 9.1 s.u.

12. Respondent reported the following permit effluent limit violations in its monthly discharge monitoring reports ("DMRS") for Outfall No. 001– Combined Effluent (01A +01C + 01D + 01N):

1. Parameter: Total recoverable phenolics
Permit Limit: 0.5 lb./day (Daily Maximum)

January 2014: Greater than 0.17 lb./day

2. Parameter: UOD (Ultimate Oxygen Demand)
Permit Limit: 540 lb./day (Daily Maximum)

July 2015: 633 lb./day

13. Respondent reported the following permit effluent limit violations in its monthly discharge monitoring reports ("DMRS") for Outfall No. 002– Stormwater:

1. Parameter: Settleable solids
Permit Limit: 0.1 mL/L (Daily Maximum)

June 2014: 0.6 mL/L

2. Parameter: Settleable solids
Permit Limit: 0.1 mL/L (Daily Maximum)

December 2015: 0.8 mL/L

14. Respondent's exceedences of SPDES permit limits identified in paragraphs 15-17 above are violations of the SPDES permit and of regulations at 6 NYCRR Part 750-2.5(a)(1).

15. ECL §71-1929 provides for the following civil penalties: "*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 for 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.*"

16. The present Order on Consent supercedes Orders on Consent R4-2011-1116-146, R4-2011-1116-146M, R4-2014-0131-17, and R4-2014-0131-17M with respect to all water violations.

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

I. With respect to the aforesaid alleged violations, a civil penalty in the amount of THIRTY SEVEN THOUSAND ONE HUNDRED AND TWENTY FIVE DOLLARS (\$37,125) which 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.

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

III. 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.

IV. 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, servants, agents, successors or assigns.

V. 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.

VI. Respondent shall allow duly authorized representatives of the DEC access to the site without prior notice, at such times as may be desirable or necessary in order for the

DEC to inspect and determine the status of Respondent's compliance with this Order, the ECL and regulations promulgated thereunder.

VII. The Schedule of Compliance is incorporated into the Order and is enforceable thereunder.

VIII. All communications except where otherwise specifically directed should be sent to:

For Department:
Water Engineer
New York State Department
of Environmental Conservation
Region 4
1130 N. Westcott Road
Schenectady, New York 12306

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

X. 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, its servants, its employees, its successors and its 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 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. A. Whenever the Department's approval of a submittal under the terms of this Order is required, the Department shall review such submittal 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 applicable state and federal regulations and laws 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 plans and reports shall be incorporated into and become an enforceable part of this Order.

B. 1. If the Department disapproves a submittal, its notice shall specify the reasons for disapproval. Respondent shall make a revised submittal to the Department within thirty (30) days after receiving written notice of disapproval that specifically addresses all of the Department's stated reasons for disapproving the first submittal.

2. After receipt of the revised submittal from Respondent, the Department shall notify Respondents in writing of its approval or disapproval. If the Department approves the revised submittal, it shall be incorporated into and become an enforceable part of this Order. If the Department disapproves the revised submittal, it shall notify the Respondent in writing and specify its reasons. The Department reserves its right to take whatever action it deems necessary after the second disapproval of a submittal.

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

XIII. If more than one Respondent is a signatory to this Order, use of the term "Respondent" in this Order shall be deemed to refer to each Respondent identified in the Order.

XIV. This Order shall not create any presumption of law or fact which shall inure to the benefit of any person other than the Department, State or Respondent.

XV. Respondent shall not be in default of compliance with this Order if it is unable to comply with any provision of this Order solely because of an action of a national government or court, or an act of nature, war, strike, riot or catastrophe, as to any of which the negligence or willful misconduct of Respondent was not a proximate cause. Respondent shall notify DEC in writing immediately upon obtaining knowledge of any such event. Relief under this clause shall not be available if Respondent fails to timely comply with the notice requirement set out in this paragraph.

DATED: *Nov 7* 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 rights to notice and hearing herein and agrees to be bound by the provisions, terms and conditions contained herein.

SI Group, Inc.

Authorized Representative Daniel Paul Tilley

SIGNED: *Daniel Paul Tilley*

TITLE: SVP North America

DATE: November 04 2016

STATE OF NEW YORK

)ss.:

COUNTY OF Schenectady

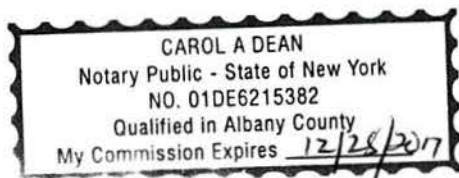
On the 4th day of November in the year 2016 before me, the undersigned, a Notary Public in and for the State, personally appeared Daniel Paul Tilley personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and 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.

Carol Dean

Notary Public

Qualified in the County of:

My Commission Expires:



Schedule of Compliance

1. By December 15, 2016, Respondent shall submit to the Department, a summary of the means and methods used routinely/regularly to predict the hydraulic and organic loading to the WWTP and to ensure compliance with 6 NYCRR Part 750-2.8 (a) (1). At a minimum, this shall address manufacturing schedules (including sequencing/reformulation of products), raw material usage (including changes in composition/vendor), the design capacity of the WWTP, and the current SPDES permit limits. Once submitted as part of this Order, Respondent will have satisfied this submission requirement. However, Respondent will be required to continue a predictive process at least as robust and document such for review during inspections to show compliance with 6 NYCRR Part 750-2.8 (a) (1).

2. By December 31, 2016, Respondent shall submit to the Department, an approvable engineering report which is consistent with the WWTP Upgrade Project Work Plan dated May 2016, for the upgrade of the Wastewater Diversion Tank and construction of the new 350,000 gallon Stormwater Diversion Tank. Within six (6) months of written Department approval of the engineering report, Respondent shall submit approvable engineering plans and a construction schedule. The construction schedule must include milestones for at least start-of-construction and completion-of-construction, with construction of the upgrade to the Wastewater Diversion Tank and construction of the new 350,000 gallon Stormwater Diversion Tank to be completed within twenty-four (24) months of written Department approval of the engineering plans and construction schedule. Once approved, the construction schedule will become enforceable under this Order. A Certificate of Compliance form shall be submitted to the Department for each construction milestone by the date in the approved construction schedule.