

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of General Counsel, Region 4
1130 North Westcott Road, Schenectady, NY 12306-2014
P: (518) 357-2048 | F: (518) 357-2087
www.dec.ny.gov

CERTIFIED - RETURN RECEIPT REQUESTED
7013 1090 0002 3365 3045

May 24, 2016

Terese Fuchs
Taconic Biosciences, Inc.
273 Hover Ave
Germantown, NY 12526

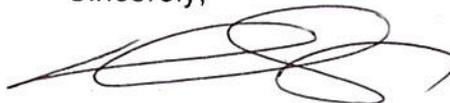
Re: Order on Consent
R4-2016-0502-92

Dear Ms. Fuchs:

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

This will also acknowledge receipt of \$3,000 the civil penalty pursuant to Paragraph I.

Sincerely,



Karen S. Lavery
Assistant Regional Attorney
Region 4

Enclosure

cc: D. Welsted



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. R4-2016-0502-92

Taconic Biosciences, Inc.
273 Hover Ave
Germantown, NY 12526

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 air resources of the State pursuant to ECL Article 19 and the rules and regulations promulgated there under.
2. Respondent, Taconic Biosciences, Inc., is a provider of research models, located at 273 Hover Ave, Germantown, New York (“facility”).
3. Respondent operates pursuant to a Certificate to Operate Permit ID No. 4-1036-00012.
4. On May 5, 2015, Department staff inspected the site and determined that there were several stationary sources which were not included in the current permitting scenario.
5. Regulations at 6 NYCRR 201.1-2 provide that *“If an existing emission source was subject to the permitting requirements of Part 201 of this Title at the time of construction or modification, and the owner and/or operator failed to apply for a permit for such emission source then the following provisions apply:*
 - (a) *The owner and/or operator must apply for a permit for such emission source or register the facility in accordance with the provisions of this Part.*

(b) The emission source or facility is subject to all regulations that were applicable to it at the time of construction or modification and any subsequent requirements applicable to existing sources or facilities.”

6. Respondent violated regulations at 6 NYCRR 201.1-2 by failing to obtain a permit or register with the Department’s Division of Air, for a boiler and reciprocating internal combustion engines that were in a demand response program.

7. Regulations at 6 NYCRR 201-3.2(c)(6) provide that:

“(c) The category headings used in the following listing of exempt activities are strictly for organizational purposes and are not intended to be definitive. The following activities are exempt from permitting requirements at non-title V facilities, but must be listed in title V facility permit applications:

(6) Emergency power generating stationary internal combustion engines as defined in section 200.1(cq) of this Title and engine test cells at engine manufacturing facilities that are utilized for research and development, reliability performance testing, or quality assurance performance testing. Stationary internal engines used for peak shaving and/or demand response programs are not exempt.”

8. Respondent, which was not exempt from permitting requirements, failed to submit a permit application to the Department, for operating stationary internal combustion engines utilized for peak shaving and/or demand response programs.

CIVIL PENALTY

9. 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

10. 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 of the aforesaid violations, a civil penalty in the amount of THREE THOUSAND DOLLARS (\$3,000) is assessed against the Respondent for the above violations. The penalty is due with the return of the signed and notarized Order made payable to the Department of Environmental Conservation by bank check.

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 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.

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: *May 23* 2016
Rotterdam, New York

Basil Seggos
Acting Commissioner
New York State Department of
Environmental Conservation

BY:

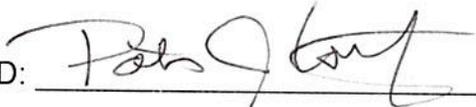


Keith Goertz
Regional Director
Region 4

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.

Taconic Biosciences, Inc.

SIGNED: 

TITLE: Senior Vice President, operations

DATE: 17 May 2016

STATE OF New York)

COUNTY OF Columbia) ss.:

On the 17 day of May in the year 2016 before me, the undersigned, a Notary Public in and for the State, personally appeared Patrick Lavery 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.



Notary Public
Qualified in the County of:
My Commission Expires:

RICHARD W. MATAACCHIERO
Notary Public, State of New York
Residing in Columbia County
My Commission Expires December 31, 2018

SCHEDULE OF COMPLIANCE

1) (a) As of the effective date of this Order, the Respondent shall not operate internal combustion engines ("ICE") in demand response program and operate only as an emergency engine as defined in regulations at 6 NYCRR 200.1(cq) which provide that: "*A stationary internal combustion engine that operates as a mechanical or electrical power source only when the usual supply of power is unavailable, and operates for no more than 500 hours per year. The 500 hours of annual operation for the engine include operation during emergency situations, routine maintenance, and routine exercising (for example, test firing the engine for one hour a week to ensure reliability). A stationary internal combustion engine used for peak shaving generation is not an emergency power generating stationary internal combustion engine.*"

OR

1) (b) Within 60 days of the effective date of this Order, the Respondent shall submit to the Department, an application to incorporate the internal combustion engines as sources in state operating permit.

2) Within 60 days of the effective date of this Order, the Respondent shall submit to the Department, an application to incorporate all non-exempt sources in state operating permit.