

**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

7013 1090 0002 3365 0778

January 30, 2015

Zbigniew Truniarz
Pond Ridge Hunts
County Route 28
Long Eddy, NY 12760

Re: Order on Consent
R4-2014-1021-158

Dear Mr. Truniarz:

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

Sincerely,

Karen Lavery
Assistant Regional Attorney
Region 4

Enclosure

cc: G. Wilber, ECO

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Violations of Article 11 of the Environmental Conservation Law ("ECL") of the State of New York and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("NYCRR")

ORDER ON CONSENT
R4-2014-1021-158

-by-

Zbigniew Truniarz
Pond Ridge Hunts
County Route 28
Long Eddy, NY 12760

Respondent

WHEREAS:

1. The New York State Department of Environmental Conservation (the "Department") is authorized pursuant to Article 11, Section 0514, of the Environmental Conservation Law ("ECL"), to regulate the possession of Eurasian boars possessed for meat production or as pets, or animals possessed or owned by a zoological park accredited by the Association of Zoos and Aquariums.
2. Pursuant to Article 3, Title 3 of the ECL, the Commissioner of the Department has the power to promote and coordinate management of water, land, fish, wildlife and air resources to assure their protection, enhancement, provisions, allocation and balanced utilization consistent with the environmental policy of the State.
3. Respondent owns Pond Ridge Hunts, a shooting preserve located at County Route 28, Long Eddy, New York ("site") (Town of Hancock).
4. On May 29, 2014 and October 8, 2014, Department staff inspected the site and observed approximately 40-80 Eurasian boars consisting of adults, juveniles and piglets. The piglets are offspring of breeding animals at the shooting preserve.

5. ECL 11-0514 (3) provides that “*Beginning September first, two thousand fifteen, no person, firm, partnership, corporation or government entity shall knowingly possess, sell, offer for sale, distribute, transport, or otherwise market or trade live Eurasian boars.*”

Violation

6. ECL 11-0514 (2) provides that “*No person, firm, partnership, corporation, or government entity shall knowingly import, allow to breed, or introduce into the wild Eurasian boars.*”

7. Respondent violated ECL 11-0514 (2) by allowing the Eurasian boars to breed at the site.

8. ECL §71-0925 provides for a civil penalty of up to \$500 per day for each animal and an additional penalty of up to \$500 for each day during which each such violation occurs.

9. Respondent affirmatively waives his right to notice and hearing in the manner provided by law, consents to the issuance of this Order, agrees to be bound by the terms, provisions and conditions contained in this Order, and agrees not to appeal this Order.

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

I. In respect of the aforesaid violations, a civil penalty in the amount of TEN THOUSAND DOLLARS (\$10,000) is assessed against the Respondent for the above violation. The civil penalty is suspended conditioned on Respondent’s compliance with the terms, conditions and provisions of this Order on Consent. Payment of the suspended penalty shall be due within 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 11 and regulations, respectively.

II. The provisions of this Order shall be deemed to bind Respondent, his 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, his 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. The Schedule of Compliance is incorporated into the Order and is enforceable thereunder.

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

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

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

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;

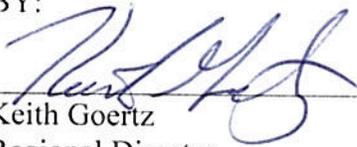
B. Any legal or equitable rights or claims, actions, proceedings, suits, causes of action or demands whatsoever that the State may have against anyone other than Respondent, his agents, his servants, his employees, his successors and his assigns; and

C. 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, the Department, or any third party, 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 cited in this Order.

DATED: *January 30,* 2015
Rotterdam, New York

Joseph J. Martens
Commissioner
New York State Department of
Environmental Conservation
BY:



Keith Goertz
Regional Director
Region 4

SCHEDULE OF COMPLIANCE

1. Effective immediately, Respondent must ensure that all Eurasian boars are securely contained and prevent them from further breeding by separating them based upon gender. Respondent shall grant USDA and NYSDEC personnel access to the site to inspect the fence line to ensure containment is achieved. No live animals are permitted to be transported off site.
2. Within seven days of the effective date of this Order, Respondent shall submit to the United States Department of Agriculture ("USDA"), the two (2) Wildlife Services Forms 12A (attached) and submit it to:
Justin Gansowski
USDA, Wildlife Services
1930 Route 9
Castleton, NY 12033
3. By March 31, 2015, Respondent shall provide Department staff a log and photographic evidence that all Eurasian boars and feral swine have been euthanized.
4. On April 1, 2015 through September 30, 2015, Respondent shall grant USDA and NYSDEC personnel access to the site to inspect for the possession of the Eurasian boar. If any Eurasian boars are found on the site, Respondent grants the USDA and NYSDEC the authority to euthanize any remaining boars.