

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
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In the Matter of the Violation(s) of
Article 17, of the New York State Environmental
Conservation Law, by:

ORDER ON CONSENT
FILE NO. R3-20040426-43

United States Military Academy at West Point

Respondent(s)
(Orange County)

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WHEREAS:

1. The New York State Department of Environmental Conservation (the "Department") is responsible for the administration and enforcement of law and regulation regarding waters of the State pursuant to Article 17, of the New York State Environmental Conservation Law.

2. On May 1, 2001, Respondent, United States Military Academy, was issued a State Pollution Discharge Elimination System ("SPDES") permit # NY-0023761 by the Department (expiration date May 1, 2006), for the Target Hill Wastewater Treatment Plant (the "facility") which permit contained certain limits on discharges of pollutants to waters of the State. On November 4, 2002, Respondent entered into an Order on Consent with the Department to settle violations which included violations of exceeding numerous limits in its SPDES permit, and discharges of untreated sewage into the Hudson River, which Order required Respondent to, among other requirements, immediately meet all SPDES permit effluent limits.

3. On or before March 24, 2004, information was submitted to the Department by Respondent via email notification or submission of a Report of Noncompliance Event, which documented violations by the United States Military Academy at West Point involving the Target Hill Wastewater Treatment Plant and specifically states: Respondent violated Environmental Conservation Law ("ECL") Sections 17-0803, which prohibits discharge of pollutants to waters of the State in a manner other than as prescribed by a SPDES permit, and ECL 17-0701 (1) which prohibits the increase or alteration of contents of wastes discharges through an outlet or point source into the waters of the state by a change in volume or physical, chemical or biological characteristics as follows.

A. The 16 monthly Discharge Monitoring Reports ("DMR"s) submitted by Respondent for the period November 2002 through February 2004 indicated numerous SPDES permit violations, including violation of the BOD-5 limit (30 day) of 30 mg/L on 2 occasions, BOD-5 limit (7 day) of 45 mg/L on 1 occasion, BOD-5 limit (30 day) of 515 lbs/day on 1 occasion, BOD-5 limit (7 day) of 774 lbs/day on 1 occasion, Settleable Solids limit of 0.3 mg/L on 4 occasions, exceeding the Flow

limit of 2.06 MGD on 2 occasions, failure to meet the BOD-5 Percent Removal limit of 85% on 5 occasions;

B. On 12/24/03, Respondent discharged 1500 gallons of partially treated sewage (“primary effluent”) via primary tank overflow onto the driveway of the facility and Ernst Road, and Respondent discharged 275,000 gallons of primary effluent which bypassed to the Hudson River during a 50% bypass event;

C. On 11/28/03, Respondent discharged between 2000 to 3000 gallons of raw sewage from the South Dock Pump Station at the facility by overflow into the Hudson River;

D. On 10/27/03, Respondent discharged between 1000 to 3000 gallons of raw sewage from the South Dock Pump Station to the Hudson River;

E. On 9/28/03, Respondent discharged 38,000 gallons of raw sewage from the South Dock Pump Station to the Hudson River;

F. On 9/27 and 9/28/03, Respondent bypassed the facility, causing 56,000 gallons of raw sewage to be discharged directly to the Hudson River, and 4,274,500 gallons of combined stormwater and partially treated sewage to be discharged to the Hudson River;

G. On 9/27/03, Respondent discharged 18,000 gallons of raw sewage from the South Dock Pump Station to the Hudson River; and Respondent’s facility overflowed, causing 6000 gallons of raw sewage to be discharged to the Hudson River;

H. On 9/23/03, a manhole owned and controlled by Respondent, located on Ernst Road, 500 feet upstream of the South Dock Pump Station overflowed causing 1000 gallons of raw sewage to be discharged to the Hudson River;

I. On 8/6/03, Respondent caused between 2000 and 5000 gallons of raw sewage to be discharged from its South Dock Pump Station into the Hudson River;

J. On 5/28/02, Respondent caused between 2000 and 7000 gallons of raw sewage to be discharged from its South Dock Pump Station into the Hudson River.

K. On 5/14/02, Respondent caused between 2000 and 8000 gallons of raw sewage to be discharged from its South Dock Pump Station into the Hudson River.

4. Respondent affirmatively waives the right to a public hearing in this matter in the manner provided by law and consents to the entering and issuing of this Order, and agrees to be bound by the terms and conditions of this Order and Schedule A.

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

I. In compromise and satisfaction of all violations or claims relative to the above-referenced violations, Respondent agrees to pay to the Department the sum of \$3,216.00 for the administrative costs expended by New York State to process these violations. The sum of these administrative costs in the amount of \$3,216.00 is payable and must be submitted by Respondent within sixty (60) days of the date of this Consent Order bearing the signature of Respondent. A table setting forth these administrative costs is appended to this Order as Schedule B. This Order does include a Compliance Schedule (Schedule A);

II. It is the expectation of the parties to this Order that all obligations of Respondent arising under this Consent Order will be fully funded. Respondent agrees to seek sufficient funding to fulfill its obligations under this Order. However, any requirement for the payment or obligation of funds by Respondent established by the terms of this Order shall be subject to the availability of funds, and no provisions herein shall be interpreted to require obligation or payment of funds in violations of the Antideficiency Act, 31 U.S.C. Section 1341. In cases where payment or obligation of funds would constitute a violation of the Antideficiency Act, the dates established requiring payment or obligation of such funds shall be appropriately adjusted.

III. Payment shall be by check made payable to the department of Environmental Conservation and mailed to:

Joyce E. Giudice
21 South Putt Corners Road
New Paltz, N.Y. 12561-1696

IV. If Respondent cannot comply with a deadline or requirement of this Order, because of an act of God, war, strike, riot, catastrophe or other condition occurring at the United States Military Academy at West Point, which is not caused by the negligence or misconduct of Respondent and which could not have been avoided by Respondent through the exercise of due care, Respondent shall make its best effort to comply nonetheless and shall, within seventy-two hours (unless notice is required sooner by State or Federal law), notify the Department by telephone and in writing, after it obtains knowledge of any such condition or event and request an appropriate extension or modification of this Order.

V. This Order shall not become effective until it is signed by the Regional Director on behalf of the Commissioner;

VI. The 2002 Order on Consent shall continue in full force and effect except for terms specifically modified by this Order.

VII. Respondent shall strictly adhere to the terms and conditions of this Order;

VIII. This Order may be changed only by written order of the Commissioner or the Commissioner's designee;

IX. This Order shall be deemed binding on Respondent, any successors and assigns and all persons, firms and corporations acting under or for Respondent, including, but not limited to those who may carry on any or all of the operations now being conducted by Respondent(s), whether at the present location or at any other in this State; and

X. 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

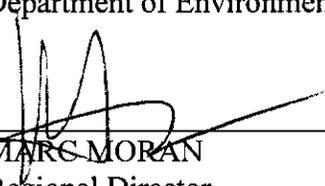
name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by Respondent and any successors (including successors in title) and assigns.

Dated: New Paltz, New York

July 9 2004

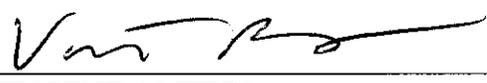
ERIN M. CROTTY, Commissioner
New York State
Department of Environmental Conservation

By: _____


MARC MORAN
Regional Director
Region 3

This Order on Consent has been reviewed and approved by the Regional Attorney as to form.

By: _____


VINCENT ALTIERI
Regional Attorney

Date: _____

7/2 2004

Schedule A

Compliance Schedule for Article 17

GENERAL REQUIREMENTS:

Immediately: Respondent(s) shall cease and desist from any and all future violations of the New York State Environmental Conservation Law and the rules and regulations enacted pursuant thereto.

Respondent(s) shall certify completion of the work, if any, required under this schedule, to the Department within five (5) days of its completion.

All technical submittals to the Department required under this Order shall be made by Respondent(s) as follows:

Three copies to Natalie Browne, Region Three, New York State Department of Environmental Conservation, 200 White Plains Road - 5th Floor, Tarrytown, NY 10591-5805

REMEDATION / RESTORATION REQUIREMENTS:

By July 15, 2004	Respondent shall submit a repair schedule providing intermediate dates derived from the approvable SSES, which I & I and SSES repair schedule shall be incorporated into this order.
By September 1, 2005	All I&I and SSES work as set forth above shall be completed.
By June 1, 2006	Respondent shall complete pilot plant study of plant biological process.
By June 1, 2007	Respondent shall complete a study of plant biological process.
By November 1, 2007	Respondent shall submit a repair schedule derived from the biological study, which biological study repair schedule shall be incorporated into this order.

Respondent shall comply with the following interim limits until the date for completion of its repair work which has been approved by the Department and incorporated in this Order, after which Respondent must comply with all effluent limits contained in its then current SPDES permit.

PERMIT LIMITS, LEVELS AND MONITORING

OUTFALL No.	LIMITATIONS APPLY:	RECEIVING WATER	EFFECTIVE	EXPIRING
001	<input checked="" type="checkbox"/> All Year <input type="checkbox"/> Seasonal from _____ to _____	Hudson River		

PARAMETER	EFFLUENT LIMIT					MONITORING REQUIREMENTS				FN
	Type	Limit	Units	Limit	Units	Sample Frequency	Sample Type	Location		
								Inf.	Eff.	
BOD ₅	Monthly average	40	mg/l	922	lbs/d	1/week	24 hour comp.			(1,2,4)
Solids, Suspended	Monthly average	40	mg/l	922	lbs/d	1/week	24 hour comp.			(1,2,4)
Solids, Settleable	Monthly average	0.5	ml/l			1/day	grab			(2)
pH	Range	6.0-9.0	SU			1/day	grab			
Temperature	Monitor		°F			1/day	grab			
Effluent Disinfection required: <input type="checkbox"/> All Year <input checked="" type="checkbox"/> Seasonal from <u>May 15</u> to <u>October 15</u>										
Coliform, Fecal	30 day geometric mean	200	No./100 ml			1/week	grab			(3)
Coliform, Fecal	7 day geometric mean	400	No./100 ml			1/week	grab			(3)
Chlorine, Total Residual	Daily Max.	0.5-2.0	mg/l			1/day	grab			(3)

- FOOTNOTES: (1) and effluent shall not exceed 25 % and 25 % of influent values for BOD₅ & TSS respectively.
 (2) For rain events greater than 1", monitor only
 (3) Monitoring is only required during the period when disinfection is required.
 (4) No limits on 7 day average regardless of rain events

SCHEDULE B

ADMINISTRATIVE COSTS

NYS Department of Environmental Conservation Region 3
Permitting and Compliance Administrative Costs
For the US Military Academy at West Point

Natalie Browne, Environmental Program Specialist I 48 hours @ \$20 per hour	\$960
Leonard Meyerson, Environmental Engineer III 20 hours @ \$40 per hour	\$800
Elizabeth Zicca, Environmental Program Specialist I 8 hours @ \$20 per hour	\$160
Joyce E. Giudice, Senior Attorney 36 hours @ \$36	\$1296
Total	\$3216

CONSENT BY RESPONDENT

Respondent hereby consents to the issuance and entry to this Order without further notice, waives its right to a hearing in this matter, and agrees to be bound by the terms, conditions and provisions of this Order.



Title: Garrison Casader

STATE OF NEW YORK)

) ss:

COUNTY OF ORANGE)

On the 17th day of June, 2004, before me, the undersigned, personally appeared Colonel Ann Horner, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies) as shown in the instrument, and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



NOTARY PUBLIC

DANIEL W. SHIMEK
Notary Public, State Of New York
Qualified in Orange County
Registration No. 4927022
Commission Expires March 21, 2006