

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Water, Region 8

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www.dec.ny.gov

October 5, 2020

Bob Mente
Alternative Waste Services, Inc
71 Bishop Road,
Newfield, NY 14867

RE: **Notice of Violation** – State Pollution Discharge Elimination System (SPDES)
General Permit for Stormwater Discharges from Construction Activities
County Line MRF, Permit # NYR11F527
Cayuta, NY 14824

Dear Mr. Mente:

This letter serves to provide you with a Notice of Violation setting forth the specific actions that constitute violations of the above referenced SPDES Permit. These conditions were noted in the site inspection reports provided on September 21, 2020 at the request of the Department.

1. As per Part II.C.2 of the General Permit for Stormwater Discharges from Construction Activity (GP-0-20-001):

“Authorization to discharge under this permit will be effective when the owner or operator has satisfied all of the following criteria:

- a. project review pursuant to the State Environmental Quality Review Act (“SEQRA”) have been satisfied...
- b. where required, all necessary Department permits subject to the Uniform procedures act...have been obtained.”

On December 5, 2019 the project engineer, Brian Grose of Fagan Engineers, was notified by the Department that the requirements of Part II.C.2 had not been met for this project. Although the project had received coverage under GP-0-20-001 in August 2019, and the SWPPP had been reviewed by NYSDEC Division of Water staff in September 2019, the SPDES permit does not allow construction activities to commence until all necessary permits have been obtained. As of this Notice of Violation, the required Part 360 Series permit has not been obtained.

2. Weekly site inspection reports dated between August 27, 2019 and September 17, 2020 indicate that construction activities continued despite the warning provided by the Department. Specific activities conducted include: clearing, grading, excavation, and soil stockpiling activities. These activities are defined in GP-0-20-001 as construction activities.



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Based on the above items, you are found to be in violation of the SPDES General Permit for Stormwater Discharges from Construction Activities and ECL Article 17. The following actions shall be taken:

- A. Temporary or permanent soil stabilization measures shall be installed on disturbed soils to the extent possible. Installation of these measures shall be initiated by **October 16, 2020** and be finalized by **October 30, 2020**. Site inspection reports shall be provided to the Department within 1 week of the completion of each inspection until otherwise notified by the Department.
- B. The permittee must prepare a plan indicating how soil stabilization measures will be implemented across all areas of the site. Portions of the site that cannot be stabilized must be clearly identified along with the reasons precluding the installation of these practices. Alternative erosion and sediment control measures must be proposed for each such location to prevent the discharge of pollutants. This plan shall be submitted to the Department by **October 16, 2020**.
- C. The project shall prepare to enter a period of planned shutdown during which no construction activities shall occur, except for necessary maintenance of erosion and sediment control measures. This shutdown will begin as soon as all areas of the site have been temporarily or permanently stabilized, but no later than **November 27, 2020**. Construction activities may recommence once all necessary permits have been obtained from the Department.
- D. While construction activities are suspended site inspections shall be conducted on a monthly basis as per GP-0-20-001. Notification shall be provided to the Department at the start of this period of reduced inspections as per Part IV.C.2.c of GP-0-20-001.

PLEASE TAKE FURTHER NOTICE THAT:

- **The Department is reviewing its options regarding the appropriate enforcement actions, including assessment of penalties, fines, and injunctive relief for the violations which have already occurred. You must take immediate action to ensure that all ongoing violations are addressed as described above. Failure to comply with this notice could result in a larger penalty that would otherwise be assessed, should you be adjudged in violation of the law.**
- **ECL Article 71-1929 provides that any person who violates ECL Article 17, or any rule or regulation promulgated pursuant thereto, or any permit issued there under, shall be liable for a civil penalty not to exceed \$37,500 per day for each violation, plus an additional penalty not to exceed \$37,500 for each day that the violation continues, and that such person may be enjoined from continuing the violation.**



Please refer to the Construction Activity page of the DEC's website (<http://www.dec.ny.gov/chemical/43133.html>) for additional information on the Construction Stormwater General Permit program. Should you have any questions regarding this letter, please contact me at (585) 226-5427 or via email at Luke.Scannell@dec.ny.gov.

Sincerely,

Luke Scannell

Luke Scannell, PhD
Environmental Engineer
NYSDEC, Division of Water

Ecc: Lisa Schwartz – DEC Office of General Counsel
Tara Blum – DEC Division of Water
Greg MacLean – DEC Division of Materials Management
Mike Miles – DEC Division of Materials Management
Brian Grose – Fagan Engineers