



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

JAN 14 2011

**CERTIFIED MAIL - RETURN RECEIPT REQUESTS**

**Article Number: 7005 3110 0000 5950 3034**

Daniel M. Meehan  
Vice President & General Manager  
Hanson Aggregates, North America  
P.O. Box 513  
Jamesville, NY 13078

Re: In the Matter of Hanson Aggregates New York  
Class I Administrative Penalty Order  
Docket No. CWA-02-2010-3318

Hanson Aggregates New York, Inc. - Jamesville Quarry  
SPDES Permit No. NY0002178

Hanson Aggregates New York, Inc. - Skaneateles Quarry  
SPDES MSGP No. NYR00B584

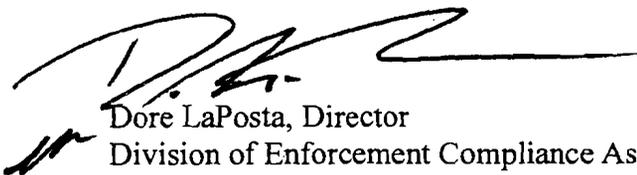
U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2011 JAN 28 A 10:29  
REGIONAL HEARING  
CLERK

Dear Mr. Meehan:

Enclosed is a copy of the Final Executed Consent Agreement and Final Order (CA/FO) which the United States Environmental Protection Agency (EPA) has negotiated with Hanson Aggregates pursuant to § 309(g) of the Clean Water Act (Act), 33 U.S.C. § 1319(g). The CA/FO requires full payment of **\$18,500** within **forty five (45) days** after the CA/FO is signed. Please refer to paragraph 11 of the CA/FO for payment instructions.

If you have any questions regarding this letter, please contact Mr. Murray Lantner, P.E., Environmental Engineer, Compliance Section at (212) 637-3976.

Sincerely,



Dore LaPosta, Director  
Division of Enforcement Compliance Assistance

Enclosure

cc: Karen Maples, Regional Hearing Clerk (w/Complaint and enclosures)  
Joe Dimura, P.E. NYSDEC

Internet Address (URL) • <http://www.epa.gov>

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**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
Region 2**

**IN THE MATTER OF:**

Hanson Aggregates New York, Inc.  
Jamesville Quarry  
P.O. Box 413, 4800 Jamesville Road  
SPDES Permit Number: NY0002178

AND

Hanson Aggregates New York, Inc.  
Skaneateles Quarry  
P.O. Box 7, 4800 State Street  
Skaneateles, New York 13152  
SPDES Permit No. NYR00B584

Respondent.

Proceeding pursuant to Section 309(g) of the  
Clean Water Act, 33 U.S.C. §1319(g)

**CONSENT AGREEMENT  
AND  
FINAL ORDER**

DOCKET NO. CWA-02-2010-3318

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG II  
2011 JAN 28 A 10:29  
PROCEEDING HEARINGS  
CLERK

**CONSENT AGREEMENT AND ORDER**

Complainant, the United States Environmental Protection Agency ("EPA"), having issued the Complaint herein on September 2, 2010, against Respondent Hanson Aggregates New York, Incorporated's Jamesville Quarry and Skaneateles Quarry ("Respondent"), and

Complainant and Respondent having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby agreed, and ordered as follows:

## **I. PRELIMINARY STATEMENT**

1. EPA initiated this proceeding for the assessment of a civil penalty, pursuant to Section 309 of the Clean Water Act, 33 U.S.C. § 1319.
2. The Complaint alleges that Respondent failed to comply with the terms of its State Pollutant Discharge Elimination System ("SPDES") Individual Permit NY002178, which is the duly issued National Pollutant Discharge Elimination System ("NPDES") permit for Respondent's Facility located at 4800 Jamesville Road, Jamesville, New York 13078; and its SPDES General Permit for Storm Water Discharges Associated with Industrial Activity except Construction Activity, GP-98-02, SPDES No. NYR00B0584, which is the duly issued NPDES permit for Respondent's Facility located at 4800 State Street, Skaneateles, New York 13152.
3. EPA notified the State of New York, regarding this action and offered an opportunity for the State of New York to confer with EPA on the proposed penalty assessment, pursuant to 40 CFR Part 22.
4. This action was public noticed. No public comment was received.
5. Respondent filed an Answer and requested an informal settlement conference in this matter.
6. This Consent Agreement and Final Order shall apply to and be binding upon Respondent, its officers, directors, employees, successors and assigns, including, but not limited to, subsequent purchasers.
7. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent. Respondent waives any defenses it might have as to jurisdiction and venue, and, without admitting or denying the factual or legal allegations contained in the Complaint, consents to the terms of this Consent Agreement and Final Order.
8. Respondent hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint.

## **II. TERMS OF SETTLEMENT**

9. Pursuant to § 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), the nature of the violations, and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of EIGHTEEN THOUSAND FIVE HUNDRED (\$18,500.00) DOLLARS.

10. For purposes of settlement, Respondent consents to the issuance of this Consent Agreement and consents to the payment of the civil penalty cited in the foregoing Paragraph.

**II. A. Penalty**

11. No later than forty-five (45) calendar days after the date of signature on the Final Order (at the end of this document), Respondent shall pay the penalty of EIGHTEEN THOUSAND FIVE HUNDRED (\$18,500.00) DOLLARS by cashier's or certified check, payable to the "Treasurer of the United States of America", identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. This check shall be mailed to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

Respondents shall also send copies of this payment to each of the following:

Larry Gaugler, Acting Chief  
Compliance Section  
Water Compliance Branch  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 20<sup>th</sup> Floor  
New York, NY 10007

and

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007

Payment must be received at the above address no later than forty-five (45) calendar days after the date of signature of the Final Order (at the end of this document). The date by which payment must be received shall hereafter be referred to as the "due date".

- a. failure to pay the penalty in full according to the above provisions will result in a referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection;

- b. further, if the payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date;
  - c. in addition, pursuant to Section 309(g)(9) of the Clean Water Act, 33 U.S.C. § 1319(g)(9), if payment is not received by the due date, a quarterly nonpayment penalty will be imposed for each calendar quarter during which such nonpayment persists. The quarterly nonpayment penalty is 20% of the aggregate amount of penalties and quarterly nonpayment penalties which are unpaid as of the beginning of such quarter;
  - d. Respondent also may be required to pay attorneys fees and costs for collection proceedings in connection with nonpayment.
12. The penalty to be paid is a civil penalty assessed by the EPA and shall not be deductible from the Respondent's federal or state taxes.

**II. B. General Provisions**

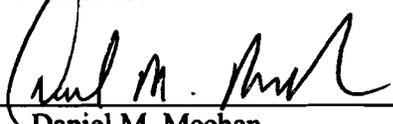
13. Respondent shall submit all notices and reports required by this Consent Agreement and Final Order by first class mail to:

Larry Gaugler, Acting Chief  
Compliance Section  
Water Compliance Branch  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 20<sup>th</sup> Floor  
New York, NY 10007

14. The Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Director or the Regional Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the accompanying Final Order.
15. Nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting, the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.

16. This Consent Agreement and Order shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor shall it be construed to constitute EPA approval of the equipment or technology installed by Respondent, if any, in connection with the SEP undertaken pursuant to this Agreement.
17. This Consent Agreement and Final Order constitutes a settlement by EPA of all claims for civil penalties pursuant to the Clean Water Act for the violations alleged in the Complaint. Nothing in this Consent Agreement and Final Order is intended to nor shall be construed to; operate in any way to resolve any criminal liability of the Respondent. Compliance with this Consent Agreement and Final Order shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.
18. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.
19. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Consent Agreement and Order.

RESPONDENT:

BY:   
Daniel M. Meehan  
Vice President & General Manager  
Hanson Aggregates, North America

DATE: 12/20/10

COMPLAINANT:

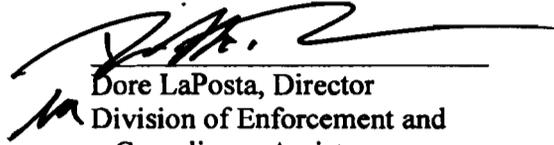
BY:   
Dore LaPosta, Director  
Division of Enforcement and  
Compliance Assistance  
U.S. EPA, Region 2  
290 Broadway, 21<sup>st</sup> Floor  
New York, New York 10007-1866

DATE: 1/14/11

### **III. FINAL ORDER**

The Director of the Division of Enforcement and Compliance Assistant, U.S. Environmental Protection Agency Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the parties is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA Region 2, New York, NY.

1/14/11  
Date

  
Dore LaPosta, Director  
Division of Enforcement and  
Compliance Assistance  
U.S. EPA, Region 2  
290 Broadway, 21<sup>st</sup> Floor  
New York, New York 10007-1866

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

**IN THE MATTER OF:**

Hanson Aggregates New York Inc.  
Jamesville Quarry  
P.O. Box 513, 4800 Jamesville Road  
Jamesville, New York 13078  
NPDES Permit Number: NY0002178

AND

Hanson Aggregates New York, Inc.  
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P.O. Box 7, 4800 State Street,  
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SPDES Permit No. NYR00B584

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**CONSENT AGREEMENT**  
**AND**  
**FINAL ORDER**

**DOCKET NO. CWA-02-2010-3318**

**CERTIFICATE OF SERVICE**

I certify that, on the date noted below, I caused to be mailed a copy of this "CONSENT AGREEMENT AND FINAL ORDER" to the following person at the address listed below:

Daniel M. Meehan  
Vice President & General Manager  
Hanson Aggregates, North America  
P.O. Box 513  
Jamesville, NY 13078

I [hand carried/mailed] the original and a copy of this "CONSENT AGREEMENT AND FINAL ORDER" to the following person at the address listed below:

U.S. Environmental Protection Agency  
Regional Hearing Clerk  
290 Broadway, 16<sup>th</sup> Floor  
New York, N.Y. 10007-1866

Date: 1/18/11  
New York, New York

Marie A. Ge  
[Signature of Sender]