

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

U.S. Environmental  
Protection Agency-Reg 2  
2014 OCT 23 AM 7:32  
REGIONAL HEARING  
CLERK

In the Matter of:

Barron's Boat Yard  
(a.k.a. Barron's Marine Services, Inc.)  
350 Fordham Place  
City Island, New York 10464

**RESPONDENT**

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

**CONSENT AGREEMENT  
AND FINAL ORDER**

**DOCKET NUMBER  
CWA-02-2015-3312**

**I. PRELIMINARY STATEMENT**

1. This is a civil administrative proceeding for the assessment of a civil penalty instituted pursuant to Section 309(g) of the Clean Water Act ("CWA" or "the Act"), 33 U.S.C. §1319(g).
2. The following Findings of Fact are made and Order issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by the Act, 33 U.S.C. §1251 *et. seq.*, which authority has been duly delegated to the Regional Administrator of Region 2, EPA and since further re-delegated to the Director, Division of Enforcement and Compliance Assistance, Region 2, EPA.
3. EPA is initiating and concluding this proceeding for the assessment of a civil penalty, pursuant to Section 309(g) of the Clean Water Act, 33 U.S.C. §1319(g), and 40 CFR §22.13(b) of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" (CROP), which sets forth procedures for simultaneous commencement and conclusion of administrative civil penalty assessment proceedings through issuance of a consent agreement and final order pursuant to 40 C.F.R. §§22.18 (b)(2) and (3).

**II. FINDINGS OF FACT**

4. Barron's Boat Yard (a.k.a. Barron's Marine Services, Inc.) (hereinafter, "Respondent") is a corporation, duly organized under the laws of the State of New York.
5. Respondent operated a facility located at 350 Fordham Place, City Island, New York (the "facility") where Respondent primarily operates a marina.
6. At all times relevant to this Administrative Complaint, Respondent was a "source" within the meaning of Section 306(a)(3) of the Act, 33 U.S.C. §1316(a)(3).

7. EPA determined that Respondent has discharged stormwater associated with industrial activity from its facility directly to a navigable water of the United States (Long Island Sound), pursuant to Section 502(7) of the Act, 33 U.S.C. §1362(7).
8. The Respondent's Facility discharged stormwater runoff to the Long Island Sound, as referenced in paragraph 7 above, without a State Pollutant Discharge Elimination System ("SPDES") General Permit for Stormwater Discharges Associated with Industrial Activity.

### **III. CONCLUSIONS OF LAW AND JURISDICTION**

9. Section 301(a) of the Act, 33 U.S.C. §1311(a), provides, in part, that the discharge of any pollutants by any person from a point source to a navigable water of the United States shall be unlawful except, *inter alia*, in accordance with the terms and conditions of a duly issued permit pursuant to Section 402 of the Act, 33 U.S.C. §1342.
10. Section 402 of the Act, 33 U.S.C. §1342, authorizes the Administrator of EPA to issue a National Pollutant Discharge Elimination System ("NPDES") permit for the discharge of any pollutant, or combination of pollutants, subject to certain requirements of the Act and conditions which the Administrator determines are necessary.
11. Pursuant to Section 402(b) of the Act, 33 U.S.C. §1342(b), EPA granted authority to the New York State Department of Environmental Conservation ("NYSDEC") to issue State Pollutant Discharge Elimination System ("SPDES") permits to facilities in New York State for the discharge of pollutants from said facilities from a point source to a navigable water of the United States.
12. Section 402(p) of the CWA, 33 U.S.C. §1342(p) sets forth the requirements for the discharges of stormwater.
13. The terms Industrial Stormwater Permit, Multi Sector General Stormwater Permit or MSGP mean the NYSDEC SPDES Multi-Sector General Permit ("MSGP") Permit for Stormwater Discharges Associated with Industrial Activity (GP-0-12-001) and/or the previous interim Industrial Stormwater Permit (GP-0-11-009). The current MSGP (GP-0-12-001) was issued by the NYSDEC, became effective on October 1, 2012 and expires on September 30, 2017. GP-0-12-001 replaced GP-0-11-009, which became effective on March 28, 2012 and expired on September 30, 2012.
14. The Administrator of EPA has promulgated regulations, 40 CFR §122.26(a)(1)(ii) and §122.26(b)(14), which require operators to obtain a NPDES permit for stormwater discharges associated with industrial activity. The regulations at 40 CFR §122.26(b)(14) establish requirements for stormwater discharges associated with industrial activity.
15. Respondent has conducted industrial activity under SIC Code 4493 and therefore is regulated under 40 CFR 122.26 and the NYSDEC MSGP.

16. The SPDES MSGP and regulations for stormwater discharges at 40 CFR §122.26(b)(14) apply to this facility.
17. The Respondent's Facility is subject to the NPDES requirements pursuant to Section 402 of the Act, 33 U.S.C. §1342 and Section 301(a) of the Act, 33 U.S.C. §1311(a).
18. Based upon the Findings of Fact set forth above, Respondent operated the Facility in violation of Sections 301 and 402 of the Act.
19. EPA has jurisdiction over the subject matter of this action, pursuant to Section 309 of the Act, 33 U.S.C. §1319, and over the Respondent.

#### **IV. CONSENT AGREEMENT**

20. Paragraphs 1 through 19, above, are re-alleged and incorporated herein by reference.
21. EPA and Respondent agree that it is in the public interest to resolve the issues alleged in this Consent Agreement without further litigation and the expense and effort that litigation entails.
22. Based upon the foregoing and pursuant to Section 309(g) of the Act, 33 U.S.C. §1319(g), and the CROP, it is hereby agreed by and between EPA and Respondent, and Respondent voluntarily and knowingly agrees as follows:

#### **V. TERMS OF SETTLEMENT**

23. For the purpose of this proceeding, Respondent:
  - a. Admits the jurisdictional allegations of this CA/FO;
  - b. Neither admits or denies the factual allegations contained herein;
  - c. Waives its right to contest the allegations, at a judicial or administrative hearing, or to appeal this CA/FO;
  - d. Consents to the payment of the civil penalty in the amount of *One Thousand Two Hundred Dollars (\$1,200.00)*, as stated in Paragraph 24, below.

#### **VI. PAYMENT OF CIVIL PENALTY**

24. Respondent shall pay a civil penalty in the amount of *One Thousand Two Hundred Dollars (\$1,200.00)* to the "Treasurer of the United States of America."
25. Payments can be made by debit/credit card, check, or electronically. Electronic payments fall into two categories: wires and Automated Clearinghouse (ACH). Wires are same day and more costly. ACH is the next day or any future scheduled day and is less expensive. Please note that wires and ACH payments must be conducted through the sender's bank.

The checks (cashier's or certified checks only) shall be 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. Payment methods are described below:

| Type of Payment   | Payment Information   |  |  |
|---|---|--|--|
| <b>Debit and Credit Card Payments</b>   | <a href="https://www.pay.gov/paygov/">https://www.pay.gov/paygov/</a>   |  |  |
| <b>Checks from U.S. Banks</b><br><b>Finance Center</b><br><b>Contacts:</b><br><b>Craig Steffen</b><br><b>(513-487-2091)</b>   |   | <b>U.S. Postal Service</b>   | <b>UPS, Federal Express, or Overnight Mail</b>   |
|   | <b>Check Payments – Fines and Penalties</b>   | <b>US Environmental Protection Agency</b><br><b>Fines and Penalties</b><br><b>Cincinnati Finance Center</b><br><b>PO Box 979077</b><br><b>St. Louis, MO 63197-9000</b> | <b>U.S. Bank</b><br><b>Government Lockbox 979077</b><br><b>US EPA Fines &amp; Penalties</b><br><b>1005 Convention Plaza</b><br><b>SL-MO-C2-GL</b><br><b>St. Louis, MO 63101</b><br><b>314-418-1028</b><br><b>Contact: Natalie Pearson</b><br><b>314-418-4087</b> |
|   |   |  |  |
| <b>Checks drawn on foreign banks with no USA branches (any currency)</b>  | <b>Cincinnati Finance</b><br><b>US EPA, MS-NWD</b><br><b>26 W ML King Drive</b><br><b>Cincinnati, OH 45268-0001</b>   |  |  |
| <b>Wire Transfers (any currency)</b>  | <b>Federal Reserve Bank of New York</b><br><b>ABA: 021030004</b><br><b>Account Number: 68010727</b><br><b>SWIFT address: FRNYUS33</b><br><b>33 Liberty Street</b><br><b>New York, NY 10045</b><br><b>Field Tag 4200 of the Fedwire message should read:</b><br><b>"D 68010727 Environmental Protection Agency"</b>  |  |  |
| <b>ACH - Automated Clearinghouse for receiving US currency Finance Center Contacts:</b><br><br><b>John Schmid</b><br><b>(202-874-7026)</b><br><br><b>REX (Remittance Express),</b><br><b>1-866-234-5681</b> | <b>US Treasury REX / Cashlink ACH Receiver</b><br><b>ABA: 051036706</b><br><b>Account Number: 310006, Environmental Protection Agency</b><br><b>CTX Format Transaction Code 22 – checking</b><br><br><b>Physical location of US Treasury facility:</b><br><b>5700 Rivertech Court</b><br><b>Riverdale, MD 20737</b> |  |  |

*For Respondent: Barron's Boat Yard (a.k.a. Barron's Marine Services, Inc.) hereby consents to the issuance of the ORDER and agrees to be bound thereby.*

BY: John Barron  
Mr. John Barron, President  
Barron's Boat Yard  
(a.k.a. Barron's Marine Services, Inc.)  
350 Fordham Place  
City Island, New York 10464

DATE: Aug 29 2014

*For the Complainant, the United States Environmental Protection Agency*

BY: 

DATE: 10/21/14

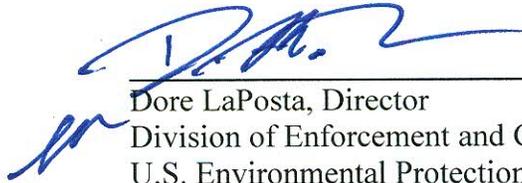
**Dore LaPosta, Director**

Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency, Region 2  
290 Broadway  
New York, New York, 10007

**VIII. FINAL ORDER**

The Regional Administrator of the United States Environmental Protection Agency, Region 2, vested by authority delegated by the Administrator of the United States Environmental Protection Agency ("EPA") and having further re-delegated such authority to the Division of Enforcement and Compliance Assistance, Region 2, EPA, 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, United States Environmental Protection Agency, Region 2, New York, New York.

DATED: 10/21/14



\_\_\_\_\_  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency, Region 2  
290 Broadway  
New York, NY 10007-1866

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

**IN THE MATTER OF:**

Barron's Boat Yard  
(a.k.a. Barron's Marine Services, Inc.)  
350 Fordham Place  
City Island, New York 10464

**Respondent**

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

**CONSENT AGREEMENT  
AND FINAL ORDER**

**DOCKET No. CWA-02-2015-3312**

**CERTIFICATE OF SERVICE**

I certify that, on the date noted below, I served the foregoing fully executed Consent Agreement and Final Order, bearing the above referenced docket number, on the persons listed below, in the following manner:

Original and One Copy by EPA Internal Mail:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16th floor  
New York, NY 10007-1866

Copy by Certified Mail Return Receipt Requested:

Mr. John Barron, President  
Barron's Boat Yard  
(a.k.a. Barron's Marine Services, Inc.)  
350 Fordham Place  
Bronx, New York 10464

10/22/14  
Date

Marie St. Germain  
Signature

Marie St. Germain  
Print Name

Branch Secretary  
Print Title