



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

SEP - 2 2010

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7005 3110 0000 5939 3888

Mr. Michael C. Lewis, CHMM, Environmental Manager
Hanson Aggregates, North America
P.O. Box 513
Jamesville, NY 13078

Re: Notice of Complaint and Proposed Assessment of a Civil Penalty
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-REGION 2
213 SEP - 8 PM 3:42
REGIONAL HEARING
CLERK

Dear Mr. Lewis:

Enclosed is a Complaint which the U.S. Environmental Protection Agency (“EPA”) is issuing to you as a result of our determination that Hanson Aggregates New York, Inc. - Jamesville Quarry located at 4800 Jamesville Road, Jamesville, New York 13078 and that Hanson Aggregates New York, Inc. - Skaneateles Quarry, located at 4800 State Street, Skaneateles, New York 13152 are in violation of Sections 301 and 402 of the Clean Water Act (Act), 33 U.S.C. §§1311 and 1342. This Complaint is filed pursuant to the authority of §309(g) of the Act, 33 U.S.C. §1319(g). The Complaint proposes that a combined civil penalty of \$32,500 be assessed against Hanson Aggregates New York, Inc. Jamesville and Skaneateles Quarries for these violations.

You have the right to a hearing to contest the factual allegations in the Complaint. If you admit the allegations, or they are found to be true after you have had an opportunity for a hearing on them, you have the right to contest the penalty proposed in the Complaint. I have enclosed a copy of Consolidated Rules of Practice (“CROP”), found at 40 Code of Federal Regulations Part 22, which the EPA follows in cases of this kind. Please note the requirements for an Answer at §22.15 of the CROP. **If you wish to contest the allegations in the Complaint or the penalty proposed in the Complaint, you must file an Answer within thirty (30) days of your receipt of the enclosed Complaint to the EPA Regional Hearing Clerk at the following address:**

Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, New York 10007-1866

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

If you do not file an Answer within thirty (30) days of receipt of this Complaint, you may be judged to have defaulted (See, §22.17 of the CROP). If a default order is entered, the entire proposed penalty may be assessed without further proceedings.

Whether or not you request a formal hearing, you may informally confer with EPA concerning the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint to pursue the possibility of settlement as a result of such informal conference with the Agency. The Agency also encourages the use of Supplemental Environmental Projects, where appropriate, as part of the settlement. Enclosed is a copy of the Final EPA Supplemental Environmental Projects Policy (May 1, 1998) for your consideration. You may represent yourself or be represented by an attorney at any stage of the proceedings, including any informal discussions, whether in person or by telephone. Please note that a request for an informal conference does not substitute for a written Answer or effect what you may choose to say in an Answer, nor does it extend the thirty (30) days by which you must file an Answer requesting a hearing. Any hearing held in this matter will be conducted in accordance with the CROP.

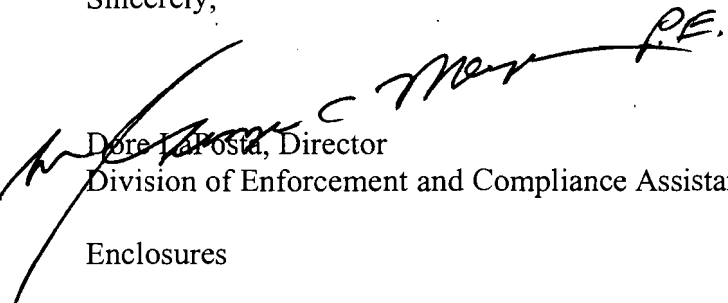
If you have any questions or wish to discuss a settlement of this matter with the EPA by an informal conference, please immediately contact:

Murray Lantner, P.E., Environmental Engineer
Water Compliance Branch
U.S. Environmental Protection Agency, Region 2
290 Broadway – 20th Floor
New York, New York 10007-1866
(212) 637-3976
Lantner.Murray@epa.gov

For your information, I am enclosing an Information Sheet which may be helpful, if you are a small business as defined at 13 C.F.R. §121.201, in obtaining compliance assistance, or if you wish to comment on this action to the Small Business and Agriculture Regulatory Enforcement Ombudsman and Regional Fairness Board.

Should you have any questions concerning this matter, please feel free to contact Mr. Murray Lantner, P.E., Environmental Engineer (212) 637-3976.

Sincerely,



Dore Larosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

1. Complaint
2. CROP

3. EPA Supplemental Environmental Projects Policy
4. Information for Small Business

cc: **Karen Maples**, Regional Hearing Clerk (w/Complaint and enclosures
Joe DiMura, P.E., Director, NYSDEC Bureau of Water Compliance Programs
Mr. Gary W. Eno, Plant Manager, Hanson Aggregates, Jamesville Quarry
Philip Wheeler, Plant Manager, Hanson Aggregates, Skaneateles Quarry

**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
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)

**PROCEEDING TO ASSESS A
CLASS I CIVIL PENALTY**

DOCKET NO. CWA-02-2010-3318

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REGION 2
2010 SEP -03 PM 3:42
REGIONAL HEARINGS
CLERK

**ADMINISTRATIVE COMPLAINT
FINDINGS OF VIOLATION, NOTICE OF PROPOSED
ASSESSMENT OF AN ADMINISTRATIVE PENALTY, AND
NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

I. STATUTORY AND REGULATORY AUTHORITIES

1. This Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative Penalty, and Notice of Opportunity to Request a Hearing (Complaint) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 309(g)(2)(A) of the Clean Water Act (Act or CWA), 33 U.S.C. §1319(g)(2)(A). The Administrator has delegated this authority to the Regional Administrator of EPA, Region 2, who in turn has delegated it to the Director, Division of Enforcement and Compliance Assistance (DECA) of EPA, Region 2 (Complainant).
2. Pursuant to Section 309(g)(2)(A) of the Act, and in accordance with 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), 40 CFR Part 22 (2001), a copy of which is attached, Complainant hereby requests that the Regional Administrator assess a civil penalty

against Hanson Aggregates New York, Incorporated's Jamesville Quarry and Skaneateles Quarry. ("Respondent", "Permittee", "Hanson Aggregates", "Hanson"), as a result of Complainant's determination that the Respondent is in violation of Sections 301, 308 and 402 of the Act, 33 U.S.C. §1311, §1318 and §1342, respectively, for the unlawful discharge of pollutants into navigable waters and improper monitoring and reporting.

3. Section 301(a) of the Act, 33 U.S.C. §1311(a), provides in part that "except as in compliance with this Section and Sections . . . 402, and 404 of the Act, the discharge of any pollutant by any person shall be unlawful."
4. Section 308 of the Act, 33 U.S.C. §1318, provides, in relevant part, that the Administrator of EPA may require the owner or operator of any point source to, among other things: maintain such records; make such reports; install, use and monitor such equipment; sample such effluents; and provide such other information as may reasonably be required in order to carry out Section 402 of the Act, 33 U.S.C. §1342.
5. Section 402 of the Act, 33 U.S.C. §1342, authorizes the Administrator of the 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. Additionally, under the authority delegated to the New York State Department of Environmental Conservation ("NYSDEC") by the EPA under Section 402(b) of the Act, 33 U.S.C. §1342(b), a State Pollutant Discharge Elimination System ("SPDES") permit is required to be issued to facilities in New York State by the NYSDEC for the discharge of pollutants from said facilities from a point source to a navigable water of the United States.
6. Section 402(a) of the Act, 33 U.S.C. §1342(a), requires that permit coverage be obtained for the discharge of pollutants. Section 402 (p) of the Act, 33 U.S.C. §1342(p), requires a permit with respect to a storm water discharge associated with industrial activity.
7. The Jamesville Quarry manufactures crushed and broken limestone Standard Industrial Category ("SIC") Code 1422. Discharges from this facility are regulated by SPDES Individual Permit NY0002178 ("Individual Permit"). The Jamesville Quarry is subject to the Mineral Mining Point Source Category in 40 CFR 436. The Permit became effective on June 1, 2007 and will expire on May 31, 2012. The previous permit became effective on or about June 1, 2002 and expired on May 31, 2007.
8. The Individual SPDES Permit for the Jamesville Quarry authorizes discharges of process waters from sand and gravel operations from the sedimentation basin to Outfall 001 which discharges to Rams Gulch Brook (a tributary of Butternut Creek) and stormwater discharges from Outfall 004 to Butternut Creek which is a tributary of Chittenango Creek, Oneida Lake and ultimately Lake Ontario.
9. The Skaneateles Quarry is a bedrock mining-hot mix asphalt plant and a crushed stone/aggregate facility that falls within SIC codes 2951 and 1422, respectively. The life of mine area of the property is 248.7 acres of which the quarry area is about 90% of this

total area. The area of the total property expressed on the site map in the Storm Water Pollution Prevention Plan ("SWPPP") is approximately 450 acres.

10. While most of the Skaneateles Quarry's stormwater associated with industrial activity drains to the quarry floor where it infiltrates or evaporates, there is Stormwater associated with industrial activity that discharges from the facility via Outfall 001 to a roadside ditch along Route 321, which flows to an unnamed tributary of Carpenter's Brook, which is a tributary of the Seneca River that ultimately flows into Lake Ontario.
11. The Administrator of EPA has promulgated regulations at 40 CFR §122.26(a)(1)(ii) and §122.26(b)(14), which require operators to obtain a NPDES permit for storm water discharges associated with industrial activity and construction activity.
12. The Skaneateles Quarry submitted a Notice of Intent or Termination ("NOI" or "NOIT") in accordance with 40 CFR §122.26(b)(14) and Section 402(p) of the CWA on or about November 13, 1998 that was received by the NYSDEC on November 16, 1998. The facility obtained coverage under the SPDES General Permit for Storm Water Discharges Associated with Industrial Activity except Construction Activity, GP-98-03 ("1998 MSGP"). The facility's 1998 MSGP became effective (under SPDES No. NYR00B584) on or about November 15, 1998 and expired on November 1, 2003, but was administratively extended through the effective date of the current MSGP.

The facility submitted an NOI on or about June 21, 2007 for coverage under the terms and conditions of the SPDES Multi Sector General Permit for Storm water Discharges Associated with Industrial Activity GP-0-06-002 ("MSGP" or "2007 MSGP"). This MSGP became effective on March 28, 2007 and allowed existing dischargers 90 days from the effective date to submit an NOI. The facility submitted its NOI in a timely manner and thereby received coverage under the 2007 MSGP. Based on the SIC Codes for the Skaneateles Quarry it is subject to Sector D (Asphalt Paving and Roofing Materials and Lubricants) and Sector J (Mineral Mining and Dressing) of the MSGP.

13. The Act and its implementing regulations and applicable NPDES/SPDES permit contain the following definitions:
 - a) "Navigable waters" means the waters of the United States and territorial seas, pursuant to Section 502(7) of the Act, 33 U.S.C. §1362(7). "Waters of the United States" means, but are not limited to, waters which are currently used or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide and including wetlands, rivers, streams (including intermittent streams) (40 CFR §122.2).
 - b) "Pollutant" means, but is not limited to, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge, and industrial, municipal and agricultural waste discharged into water, pursuant to Section 502(6) of the Act, 33 U.S.C. §1362(6).

- c) "Point source" means "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged, ..." pursuant to Section 502(14) of the Act, 33 U.S.C. §1362(14).
- d) "Discharge of a pollutant" means any addition of any pollutant to navigable waters from any point source, pursuant to Section 502(12) of the Act, 33 U.S.C. §1362(12).
- e) "Person" means, but is not limited to, an individual, corporation, partnership or association, pursuant to Section 502(5) of the Act, 33 U.S.C. §1362(5).
- f) "Owner" or "Operator," for the purpose of the MSGP means the owner or operator of any facility or activity subject to regulation as defined in Appendix A of the MSGP.

II. JURISDICTIONAL FINDINGS

- 14. Hanson Aggregates New York, Inc. ("Respondent") is a person within the meaning of Section 502(5) of the CWA, 33 U.S.C. §1362(5).
- 15. At all relevant times, Respondent was the owner/operator of the Hanson Aggregates New York, Inc., Jamesville Quarry and the Skaneateles Quarry Facilities.
- 16. The industrial facilities are located at 4800 Jamesville Road, Jamesville, New York 13078 (Jamesville Quarry) and 4800 State Street (Route 321), Skaneateles, New York 13152 (Skaneateles Quarry), respectively.
- 17. Respondent's Jamesville Quarry and Skaneateles Quarry were and are, at all relevant times, point sources as defined in Section 502 (14) of the Act, 33 U.S.C. §1362(14) that discharge to Navigable Waters as defined in 502 (7) of the Act, 33 U.S.C. §1362(7) which are described in paragraphs 8 and 10 above.

III.A. FINDINGS OF VIOLATION FOR THE JAMESVILLE QUARRY

- 18. Complainant realleges Paragraphs 1-17 above.
- 19. EPA personnel conducted a Compliance Evaluation Inspection ("CEI") on August 8, 2007 and transmitted the report from the CEI by letter dated March 31, 2008. The CEI report noted the following violations of the SPDES Permit.
- 20. The Individual Permit for the facility contains a daily maximum 70°F temperature limit at Outfall 001. As reported in the facility's annual SPDES Monitoring reports, the temperature of the discharge from Outfall 001 in July 2006, August 2006, July 2007, was 75°F, 75°F, and 73°F respectively which exceeded the 70°F limit contained in the Permit in violation of Sections 301 and 402 of the CWA.

21. The Individual Permit requires monthly monitoring of Outfall 004 during runoff events for flow rate, total suspended solids, and oil and grease. Paragraph (e) of the Individual Permit requires that “monitoring be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.”
22. The 2006 and 2007 annual SPDES Monitoring Summary submitted by the facility does not contain any of the required monitoring data for Outfall 004 as required by the Individual Permit in violation of Sections 301, 308 and 402 of the CWA.

III.B. FINDINGS OF VIOLATION FOR THE SKANEATELES QUARRY

23. Complainant realleges Paragraphs 1 – 17 above.
24. EPA personnel conducted a CEI on August 7, 2007 and transmitted the report from the CEI by letter dated February 8, 2008. The CEI report noted the following violations of the SPDES Permit.
25. Part III.D.4. of the 1998 MSGP requires that the permittee conduct Comprehensive Site Compliance Inspections on an annual basis and maintain these records with the SWPPP. Part III.B. of the 1998 MSGP requires that the permittee shall make its records available upon request. Annual site inspections and compliance certifications for 2005 and 2006 were requested by EPA personnel, but were not available during or after the CEI in violation of the 1998 MSGP and Sections 301, 308 and 402 of the CWA.
25. Part III.D.3.g. of the 1998 MSGP requires that the SWPPP include a certification that the facility’s Outfalls have been tested or evaluated for the presence of non-storm water discharges. Respondent’s SWPPP for the Skaneateles Quarry, obtained and reviewed as part of the CEI, dated October 5, 2001, did not include the required certification pertaining to non-storm water discharges in violation of the 1998 MSGP and Sections 301, 308 and 402 of the CWA.
26. Part III.D of the 2007 MSGP requires that all BMPs identified in the SWPPP must be maintained in effective operating condition. Part III.C.6.b(1)(e) and/or Part III.I of the 2007 MSGP specify that if site inspections identify BMPs that are not operating effectively, maintenance must be performed before the next anticipated storm event, or as necessary to maintain the continued effectiveness of stormwater controls. At the time of the August 7, 2007 inspection, the EPA inspector identified that the trench drain at the quarry entrance, which flows to the plant’s Stormwater Outfall 001 via a sump and into the roadside ditch was full of sediment. The roadside ditch which receives the plant’s stormwater discharges also had accumulations of sediment and sump was full of standing water. Hanson Aggregates quarterly inspection reports from July 12, 2007, November 14, 2006, and August 2006 indentified that the sump at the entrance was full of water and/or in need of cleaning. Respondent violated the MSGP and sections 301 and 402 of the CWA by failing to properly maintain and clean its trench drain and sump tributary to Outfall 001.

IV. NOTICE OF PROPOSED ORDER ASSESSING A CIVIL PENALTY

Based on the foregoing Findings of Violation, and pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. §1319(g), and the Debt Collection Improvement Act of 1996, EPA, Region 2 hereby proposes to issue a Final Order Assessing Administrative Penalties (Final Order) to Respondent assessing a penalty of **\$32,500**. EPA determined the proposed penalty after taking into account the applicable factors identified at Section 309(g)(3) of the Act, 33 U.S.C. §1319(g)(3). EPA has taken account of the nature, circumstances, extent and gravity of the violation (or violations), and Respondent's prior compliance history, degree of culpability, economic benefit or savings accruing to Respondent by virtue of the violations, and Respondent's ability to pay the proposed penalty. Based on the Findings set forth above, the Respondent has been found to have violated the Act in 31 instances. EPA may issue the Final Order Assessing Administrative Penalties thirty (30) days after Respondent's receipt of this Notice, unless Respondent within that time files an Answer to the Complaint and requests a Hearing on this Notice pursuant to the following section.

V. PROCEDURES GOVERNING THIS ADMINISTRATIVE ACTION

The rules of procedure governing this civil administrative litigation have been set forth in the CROP, 40 CFR Part 22. A copy of these rules accompanies this Complaint.

A. Answering The Complaint

Where Respondent intends to contest any material fact upon which the Complaint is based, to contend that the proposed penalty is inappropriate or to contend that Respondent is entitled to judgment as a matter of law, Respondent must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written Answer to the Complaint, and such Answer must be filed within thirty (30) days after service of the Complaint. 40 CFR § 22.15(a). The address of the Regional Hearing Clerk of EPA, Region 2, is:

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

Respondent shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. 40 CFR §22.15(a). Respondent's Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which the Respondent has any knowledge. 40 CFR §22.15(b). Where Respondent lacks knowledge of a particular factual allegation and so states in the Answer, the allegation is deemed denied. 40 CFR §22.15(b). The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense, (2) the facts that Respondent disputes (and thus intend to place at issue in the proceeding), (3) the basis for opposing the proposed relief and (4) whether Respondent requests a Hearing. 40 CFR §22.15(b).

Respondent's failure affirmatively to raise in the Answer facts that constitute or that might constitute the grounds of a defense may preclude Respondent, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a Hearing.

B. Opportunity To Request A Hearing

If requested by Respondent in its Answer, a Hearing upon the issues raised by the Complaint and Answer may be held. 40 CFR §22.15(c). If, however, Respondent does not request a Hearing, the Presiding Officer (as defined in 40 CFR §22.3) may hold a Hearing if the Answer raises issues appropriate for adjudication. 40 CFR §22.15(c).

Any Hearing in this proceeding will be held at a location determined in accordance with 40 CFR §22.21(d). A Hearing of this matter will be conducted in accordance with the applicable provisions of the Administrative Procedure Act, 5 U.S.C. §§551-59, and the procedures set forth in Subpart D of 40 CFR Part 22.

Should Respondent request a Hearing on this proposed penalty assessment, members of the public, to whom EPA is obligated to give notice of this proposed action, will have a right under Section 309(g)(4)(B) of the Act, 33 U.S.C. §1319(g)(4)(B), to be heard and to present evidence on the appropriateness of the penalty assessment. Should Respondent not request a Hearing, EPA will issue a Final Order, and only members of the public who submit timely comment on this proposal will have an additional thirty (30) days to petition EPA to set aside the Final Order and to hold a Hearing thereon. EPA will grant the petition and will hold a Hearing only if the petitioner's evidence is material and was not considered by EPA in the issuance of the Final Order.

C. Failure To Answer

If Respondent fails in any Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. 40 CFR §22.15(d). If Respondent fails to file a timely [*i.e.* in accordance with the 30-day period set forth in 40 CFR §22.15(a)] an Answer to the Complaint, Respondent may be found in default upon motion. 40 CFR §22.17(a). Default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. 40 CFR §22.17(a). Following a default by Respondent for a failure to timely file an Answer to the Complaint, any order issued therefore shall be issued pursuant to 40 CFR §22.17(c).

Any penalty assessed in the default order shall become due and payable by Respondent without further proceedings thirty (30) days after the Default Order becomes final pursuant to 40 CFR §22.27(c). 40 CFR §22.17(d). If necessary, EPA may then seek to enforce such Final Order of Default against Respondent, and to collect the assessed penalty amount, in Federal court.

VI. INFORMAL SETTLEMENT CONFERENCE

Whether or not Respondent requests a formal Hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. 40 CFR §22.18(b). At an informal conference with a representative(s) of Complainant, Respondent may comment on the charges made in this Complaint and Respondent may also provide whatever additional information is believed to be relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged, (2) any information relevant to Complainant's calculation of the proposed penalty, (3) the effect the proposed penalty would have on Respondent's ability to continue in business and/or (4) any other special facts or circumstances Respondent wishes to raise.

Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with Respondent, to reflect any relevant information previously not known to Complainant or to dismiss any or all of the charges, if Respondent demonstrate that the relevant allegations are without merit and that no cause of action as herein alleged exists. Respondent is referred to 40 CFR §22.18.

Any request for an informal conference or any questions that Respondent may have regarding this Complaint should be directed to:

Douglas McKenna, Chief, Water Compliance Branch
U.S. Environmental Protection Agency, Region 2
290 Broadway, 20th Floor
New York, NY 10007-1866
Telephone (212) 637-4244

The parties may engage in settlement discussions irrespective of whether Respondent has requested a Hearing. 40 CFR §22.18(b)(1). Respondent's requesting a formal Hearing does not prevent Respondent from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint. Complainant does not deem a request for an informal settlement conference as a request for a Hearing as specified in 40 CFR §22.15(c).

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 CFR §22.15. No penalty reduction, however, will be made simply because an informal settlement conference is held.

Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written Consent Agreement. 40 CFR §22.18(b)(2). In accepting the Consent Agreement, Respondent waives any right to contest the allegations in the Complaint and waives any right to appeal the Final Order that is to accompany the Consent Agreement. 40 CFR §22.18(b)(2). In order to conclude the proceeding, a Final Order ratifying the parties' agreement to settle will be executed. 40 CFR §22.18(b)(3).

Entering into a settlement through the signing of such Consent Agreement and complying with the terms and conditions set forth in such Consent Agreement and Final Order terminates this administrative litigation and these civil proceedings against Respondent (note that a new enforcement action may be initiated based on continued non-compliance). Entering into a settlement agreement does not extinguish, waive, satisfy or otherwise affect Respondent's obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

VII. RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

Instead of filing an Answer, Respondent may choose to pay the total amount of the proposed penalty (\$32,500) within 30 days after receipt of the Complaint, provided that Respondent files with the Regional Hearing Clerk, Region 2 (at the address noted above), a copy of the check or other instrument of payment. 40 CFR §22.18(a). A copy of the check or other instrument of payment should be provided to the EPA Attorney identified in Section VI above. Payment of the penalty assessed should be made by sending a cashier's or certified check payable to the "Treasurer, United States of America" in the full amount of the penalty assessed in this complaint to the following addressee:

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

Pursuant to 40 CFR §22.18(a)(3), if Respondent elects to pay the full amount of the penalty proposed in the Complaint within thirty (30) days of receiving the Complaint, then, upon EPA's receipt of such payment, the Regional Administrator of EPA, Region 2 (or, if designated, the Regional Judicial Officer), shall issue a Final Order in accordance with 40 CFR §22.18(a)(3). In accordance with 40 CFR §22.45(c)(3), no Final Order shall issue until at least ten (10) days after the close of the comment period on this Complaint. Issuance of a Final Order terminates this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint (note that a new enforcement action may be initiated based on continued non-compliance). Further, pursuant to 40 CFR §22.18(a)(3), the making of such payment by Respondent shall constitute a waiver of Respondent's right both to contest the allegations made in the Complaint and to appeal said Final Order to Federal court. Such payment does not extinguish, waive, satisfy or otherwise affect Respondent's obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

VIII. Filing of Documents

The Answer and any Hearing Request and all subsequent documents filed in this action should be sent to:

Regional Hearing Clerk
U.S. Environmental Protection Agency

290 Broadway, 16th Floor
New York, New York 10007-1866

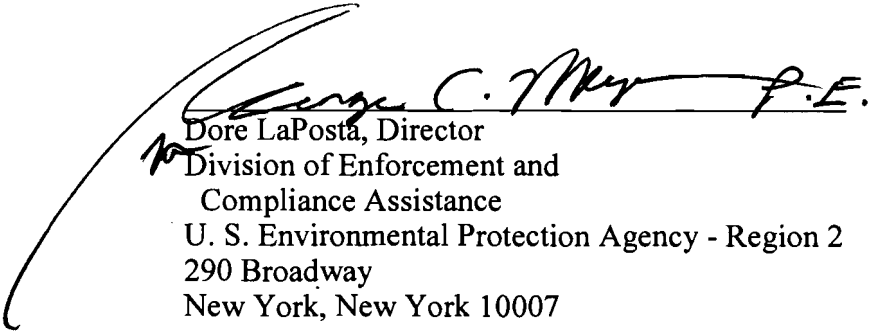
A copy of the Answer, any Hearing Request and all subsequent documents filed in this action shall be sent to:

Douglas McKenna, Chief, Water Compliance Branch
U.S. Environmental Protection Agency, Region 2
290 Broadway, 20th Floor
New York, NY 10007-1866
Telephone (212) 637-4244

IX. General Provisions

1. Respondent has a right to be represented by an attorney at any stage of these proceedings.
2. This Complaint does not constitute a waiver, suspension or modification of the requirements of the Act, regulations promulgated there under, or any applicable permit.
3. Neither assessment nor payment of an administrative civil penalty pursuant to Section 309(g) of the Act will affect Respondent's continuing obligation to comply with the Act, and with any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. §1319(a), for the violations alleged herein.

ISSUED THIS 2nd DAY OF September, 2010.


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

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.
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)

**PROCEEDING TO ASSESS A CLASS I
CIVIL PENALTY**

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

I certify that on _____, I served the foregoing fully executed Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative Penalty, and Notice of Opportunity to Request a Hearing, bearing the above referenced docket number, on the persons listed below, in the following manner:

Original and One Copy
By Hand:

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

Copy by Certified Mail
Return Receipt Requested:

Michael C. Lewis, CHMM, Environmental Manager
Hanson Aggregates, North America
P.O. Box 513
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Copy by Certified Mail
Return Receipt Requested:

Mr. Joe DiMura, P.E., Director
Bureau of Water Compliance Programs
NYSDEC
625 Broadway
Albany, NY 12233-4500

Dated: _____

NAME OF SECRETARY, Secretary
New York, New York