STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Alleged Violations of Article 72 of the Environmental Conservation Law (ECL) of the State of New York, and Part 481 in Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR),

ORDER

-by-

DEC Case No.
CO7-20170726-56

CENTRAL NEW YORK RACEWAY PARK, INC.,

Respondent.

This administrative enforcement proceeding addresses allegations by staff of the New York State Department of Environmental Conservation (Department) that respondent Central New York Raceway Park, Inc. (respondent) violated ECL 72-0201(1)(a) and 6 NYCRR 481.2 by failing to pay regulatory program fees for 2015 and 2016 together with the penalties and interest assessed pursuant to 6 NYCRR 481.5 and 481.6, respectively. Respondent owns and operates a facility known as Proposed CNY Raceway Park, located at US Route 11, Hastings, New York. In addition, Department staff is seeking a civil penalty pursuant to ECL 71-4103.

On April 18, 2018, an adjudicatory hearing was convened before Administrative Law Judge (ALJ) Michael S. Caruso of the Department's Office of Hearings and Mediation Services. ALJ Caruso prepared the attached hearing report, which I adopt as my decision in this matter, subject to my comments below.

As set forth in the ALJ's hearing report, respondent failed to file an answer to the complaint served by Department staff in this matter (see Hearing Report at 4 [Finding of Fact No. 18]). Previously, on April 13, 2018, the Department and respondent executed a Joint Statement of Stipulated Facts, which was received into evidence at the hearing (see Hearing Exhibit 2). Respondent appeared at the April 18, 2018 adjudicatory hearing but did not seek to cure its default in answering the complaint. At the close of Department staff's direct case, staff made an oral motion for a default judgment, which was unopposed by respondent. ALJ Caruso granted staff's motion on liability and allowed the hearing to proceed on penalty. I concur that staff is entitled to a judgment on default pursuant to 6 NYCRR 622.15.

At the hearing on April 18, 2018, Department staff presented a prima facie case on the merits and proved its case by a preponderance of the evidence (see Hearing Report at 5). Accordingly, staff is entitled to a judgment based on record evidence.

The record demonstrates that respondent was required to pay regulatory program fees for 2015 and 2016 in accordance with the terms of the SPDES General Permit for Stormwater Discharges from Construction Activity. Respondent did not challenge or pay those fees.

Respondent did not dispute that it owed the fees but argued that it could not afford to pay the fees due to undercapitalization of the project and a lack of State funding. Respondent argued that the deadlines for payment of the fees should have been waived in those circumstances (see Hearing Report at 6). As Department staff noted, the problem with respondent's argument is that the majority of the regulatory program fees, together with interest and penalties, were incurred in 2015 before any representation of State funding for the project. Furthermore, respondent's obligation to pay regulatory program fees commenced on September 22, 2014 when respondent obtained coverage under the SPDES General Permit for Stormwater Discharges from Construction Activity, and that obligation was not contingent upon respondent receiving funding for its project (see Hearing Report at 6).

Respondent was required to pay the 2015 regulatory program fees no later than September 26, 2015 and pay the 2016 regulatory program fees no later than November 30, 2016 but failed to do so (see Hearing Report at 3 [Findings of Fact Nos. 11, 12; Staff Exhibit 4 A at 2 and 4 D at 2]). I direct that respondent submit the past due regulatory program fees, penalties assessed pursuant to ECL 72-0201(5) and 6 NYCRR 481.5, and interest assessed pursuant to ECL 72-0201(12) and 6 NYCRR 481.6, in the amount of eleven thousand six hundred forty-two and 36/100 dollars ($11,642.36) within thirty (30) days of service of this order on respondent.

Department staff seeks, and the ALJ recommends, a civil penalty in the amount of two thousand dollars ($2,000) pursuant to ECL 71-4103, in addition to the amount assessed as a penalty pursuant to ECL 72-0201(5). Based on this record, including that a penalty is already being assessed pursuant to ECL 72-0201(5) as noted in the prior paragraph, I am not imposing the further requested penalty of two thousand dollars ($2,000).

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

I. Department staff's motion for a default judgment pursuant to 6 NYCRR 622.15 is granted. By failing to answer the complaint, respondent Central New York Raceway Park, Inc. waived its right to be heard at the hearing.

II. Based upon the proof adduced at the adjudicatory hearing, respondent Central New York Raceway Park, Inc. is adjudged to have violated ECL 72-0201(1)(a) and 6 NYCRR 481.2 by failing to pay the regulatory program fees for 2015 and 2016.

III. Within thirty (30) days of the service of this order upon respondent Central New York Raceway Park, Inc., respondent shall submit to the Department payment of the past due regulatory program fees, penalties and interest for 2015 and 2016 in the amount of eleven thousand six hundred forty-two and 36/100 dollars ($11,642.36) by certified check, cashier's check, or money order made payable to the "New York State Department of Environmental Conservation."

IV. The regulatory program fees, penalties and interest for 2015 and 2016, and the civil penalty payment shall be sent to the following address:

Office of General Counsel
NYS Department of Environmental Conservation
625 Broadway, 14th Floor
Albany, New York 12233-1500
Attn: Lisa A. Covert, Esq.

V. Any questions or other correspondence regarding this order shall also be addressed to Lisa A. Covert, Esq. at the address referenced in paragraph IV of this order.

VI. The provisions, terms, and conditions of this order shall bind respondent Central New York Raceway Park, Inc., and its agents, successors, and assigns, in any and all capacities.

For the New York State Department
of Environmental Conservation

By: _____/s/_____
Basil Seggos
Commissioner

Dated: Albany, New York
May 13, 2019

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Alleged Violations of Article 72 of the Environmental Conservation Law (ECL) of the State of New York, and Part 481 in Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR),

HEARING REPORT

-by-

DEC Case No. CO7-20170726-56

CENTRAL NEW YORK RACEWAY PARK, INC.,

Respondent.

Appearances of Counsel:

-- Thomas Berkman, Deputy Commissioner and General Counsel (Lisa A. Covert of counsel), for staff of the Department of Environmental Conservation

-- Gary Rowe, Treasurer, of Central New York Raceway Park, Inc., pro se

Staff of the New York State Department of Environmental Conservation (Department) served respondent Central New York Raceway Park, Inc. (respondent) with a notice of hearing and complaint, dated February 21, 2018, alleging violation of ECL 72-0201(1)(a) and 6 NYCRR 481.2 for failing to pay regulatory program fees for 2015 and 2016 together with the penalties and interest assessed pursuant to 6 NYCRR 481.5 and 481.6, respectively.[1] The complaint seeks an order of the Commissioner: (i) finding respondent in violation of ECL 72-0201(1)(a) and 6 NYCRR 481.2; (ii) directing respondent to pay the outstanding regulatory fees in the amount of eleven thousand six hundred forty-two and 36/100 dollars ($11,642.36); (iii) assessing a civil penalty in the amount of two thousand dollars ($2,000); and (iii) granting such other relief as the Commissioner may deem appropriate.

Service of the notice of hearing and complaint on respondent was made by certified mail and was received by respondent on February 24, 2018 (see Staff Exhibit 2, Joint Statement of Stipulated Facts, dated April 13, 2018, ¶¶ 18-20). Service was also made on the Department of State pursuant to Business Corporation Law § 306 on February 26, 2018 (id., ¶ 21). Respondent did not answer the complaint.

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[1] Department staff's complaint mistakenly cites ECL 72-0201(a) rather than ECL 72-0201(1)(a).

As provided in the notice of hearing, the hearing was convened on April 18, 2018 at 10:00 a.m. Although the hearing was to be convened at the Department's Region 7 offices in Syracuse, by agreement of the parties, the hearing was held at the Department's Central Office located at 625 Broadway, Albany, New York. The respondent requested to appear, through respondent's treasurer, by telephone, and the request was granted by the undersigned administrative law judge. Department staff was represented by Lisa A. Covert, Esq, Office of General Counsel, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York. Respondent appeared pro se through respondent's treasurer, Gary Rowe.

Department staff called one witness, Deborah Franzen, Senior Accountant, in the Department's Division of Management and Budget, Revenue Bureau. Respondent's treasurer, Gary Rowe, testified on behalf of respondent.

Department staff offered seven exhibits at hearing and respondent offered two exhibits. The attached exhibit chart describes each exhibit and whether it was received into evidence. The matter concluded in one day.

The parties executed a Joint Statement of Stipulated Facts dated April 13, 2018 (Staff Exhibit 2), which is referenced below.

Findings of Fact

The following facts are found based upon the pleadings and papers submitted with and in support of staff's motion for a default judgment and the proof adduced at hearing:

1. Respondent, Central New York Raceway Park, Inc. is a domestic business corporation with an office located at 3330 Clinton Road, Weedsport, New York (see Staff Exhibit 2, ¶ 1).

2. Respondent owns and operates a facility known as Proposed CNY Raceway Park, located at US Route 11, Hastings, New York (site) (see Staff Exhibit 2, ¶ 2).

3. Respondent filed a Notice of Intent (NOI) to be covered under State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity # GP-0-10-001 (SPDES General Permit No. GP-0-10-001), dated September 10, 2014 (see Staff Exhibit 2, ¶ 3; Staff Exhibit 7, NOI).

4. The NOI indicated that respondent would be disturbing 75.7 acres of the site (see Testimony of Deborah Franzen [Franzen Testimony]; Staff Exhibit 2, ¶ 6; Staff Exhibit 7, NOI at 3).

5. The Department acknowledged receipt of respondent's NOI and authorized discharges from the site pursuant SPDES General Permit No. GP-0-10-001 by letter dated September 23, 2014 (Acknowledgement Letter) (see Staff Exhibit 2, ¶ 4; Staff Exhibit 7, Acknowledgement Letter).

6. The Department's Acknowledgement Letter assigned permit number NYR 10Y493 to the site and conditioned the authorization on, among other things, the payment of annual regulatory fees and an initial authorization fee based on the acres of land disturbed (see Staff Exhibit 2, ¶ 4; Staff Exhibit 7, Acknowledgement Letter, ¶ 4).

7. On January 29, 2015, the Department issued SPDES General Permit for Stormwater Discharges from Construction Activity No. GP-0-15-002 (SPDES General Permit No. GP-0-15-002), which replaced SPDES General Permit No. GP-0-10-001 and authorized respondent to discharge in accordance with SPDES General Permit No. GP-0-15-002 (see Staff Exhibit 2, ¶ 5).

8. The Department sent invoices to respondent for regulatory program fees owed for 2015 on or about August 27, 2015, December 3, 2015 and April 23, 2016 (see Franzen Testimony; Staff Exhibit 2, ¶ 8; Staff Exhibit 4 A-C). The December 3, 2015 and April 23, 2016 invoices included penalties and interest (see Staff Exhibit 4 B-C).

9. The 2015 regulatory program fees included the initial authorization fee of $8,327.00 (see Staff Exhibit 4 A-C).

10. Respondent did not pay or dispute the invoices for 2015 regulatory program fees, penalties and interest (see Franzen Testimony; Staff Exhibit 2, ¶¶ 11-12).

11. The Department sent invoices to respondent for regulatory program fees owed for 2016 on or about October 31, 2016, December 30, 2016, January 29, 2017 and February 28, 2017 (see Franzen Testimony; Staff Exhibit 2, ¶ 9; Staff Exhibit 4 D-G). The December 30, 2016 invoice included interest and the January 29, 2017 and February 28, 2017 invoices included penalties and interest (see Staff Exhibit 4 E-G).

12. Respondent did not pay or dispute the invoices for the 2016 regulatory program fees, penalties and interest (see Franzen Testimony; Staff Exhibit 2, ¶¶ 11-12).

13. Respondent paid the regulatory program fees for 2017 and continues to receive coverage under SPDES General Permit No. GP-00-15-002 (see Franzen Testimony; Staff Exhibit 2, ¶ 13; Staff Exhibit 5).

14. The Department sent respondent a letter, dated April 12, 2017, demanding payment of $11,117.45 for the 2015 regulatory program fees, interest and penalties and demanding payment of $128.06 for the 2016 regulatory program fees, interest and penalties (see Staff Exhibit 2, ¶ 15; Staff Exhibit 3, Affidavit of Bonnie Pedone, sworn to April 10, 2018, with Exhibit A [invoices] attached; Staff Exhibit 6).

15. Deborah Franzen is a Senior Accountant in the Department's Division of Management and Budget, Revenue Bureau, and is familiar with the Department's procedures regarding the processing of regulatory program fees, invoices, dunning notices for overdue fees and fee disputes (see Franzen Testimony).

16. As shown by the Joint Statement of Stipulated Facts, respondent was served personally, on February 22, 2018 and February 26, 2018 with a cover letter, the notice of hearing and complaint and statement of readiness all dated February 21, 2018 (see Staff Exhibit 2, ¶¶ 18-21).

17. As of February 15, 2018, respondent owed $11,642.36 in outstanding regulatory program fees, penalties and interest for 2015 and 2016. The amount due for 2015 includes $8,437.00 in regulatory program fees, $2,109.25 in penalties and $952.57 in interest. The amount due for 2016 includes $110.00 in regulatory program fees, $27.50 in penalties and $6.04 in interest (see Franzen Testimony; Staff Exhibit 1, Complaint, Exhibit A; Staff Exhibit 2, ¶ 7).[2]

18. Respondent failed to file an answer to the complaint (see Hearing Record).

Discussion

Pursuant to ECL 72-0201(1)(a), "all persons who require a permit or approval pursuant to a state environmental regulatory program, or who are subject to regulation under a state environmental regulatory program shall submit a fee as authorized under [ECL article 72] annually to the department." The regulatory program fee is due within 30 days of billing by the Department (see ECL 72-0201[4] and 6 NYCRR 481.3). Persons discharging or authorized to discharge pursuant to a SPDES general permit must pay an annual fee of $110 and an initial authorization fee of $110 per acre of land disturbed (see ECL 72-0602[q] and [t]).[3] A person wishing to challenge the amount of the annual program fee must do so within 30 business days of the Department's original invoice, otherwise the Department's original invoice is considered final (see 6 NYCRR 481.9[c][1]). A person failing to pay an annual program fee within 45 days of the last applicable date for payment of the original invoice, must also pay a penalty (see ECL 72-0201[5] and 6 NYCRR 481.5[a]). The assessed penalty is considered final unless the person challenges the amount of the penalty within 30 days of the Department's imposition of the penalty (see ECL 72-0201[5] and 6 NYCRR 481.5[c]). In addition, a person failing to pay the annual program fee within 30 days of the last applicable date for payment of the original invoice, must pay interest (see ECL 72-0201[7] and 6 NYCRR 481.6[a]).

Part 622 applies to this proceeding because the proceeding arises out of respondent's failure to comply with a final determination as to the regulatory program fees and penalties issued pursuant to ECL article 72 and 6 NYCRR part 481 (see 6 NYCRR 622.1[b]). Because respondent did not challenge the program fees or penalty, the original invoice and subsequent penalties assessed are considered final (see 6 NYCRR 481.9[c] and 481.5[d]). "There is no provision for challenging interest assessed" (see 6 NYCRR 481.6[d]).

[2] The Joint Statement of Stipulated Facts does not list the amounts due for 2016, but those amounts are part of the total due of $11,642.36 (see Staff Exhibit 2, ¶ 7).

[3] ECL 72-0602, as amended by L 2015, ch 58, effective April 13, 2015 and applies to all bills issued on or after January 1, 2015 (see L 2015, ch 58, part Y, § 5).

Default

A respondent upon whom a complaint has been served must serve an answer within 20 days of receiving a notice of hearing and complaint unless extended by staff or ruling of the ALJ (see 6 NYCRR 622.4[a]). A respondent's failure to file a timely answer "constitutes a default and a waiver of respondent's right to a hearing" (6 NYCRR 622.15[a]).

Upon a respondent's failure to answer a complaint or failure to appear for a pre-hearing conference or hearing, Department staff may make a motion to an ALJ for a default judgment. Such motion must contain: (i) proof of service upon respondent of the notice of hearing and complaint; (ii) proof of respondent's failure to appear or to file a timely answer; and (iii) a proposed order (see 6 NYCRR 622.15[b][1] - [3]).

As the Commissioner has held, "a defaulting respondent is deemed to have admitted the factual allegations of the complaint and all reasonable inferences that flow from them" (Matter of Alvin Hunt, d/b/a Our Cleaners, Decision and Order of the Commissioner, July 25, 2006, at 6 [citations omitted]). In addition, in support of a motion for a default judgment, staff must "provide proof of the facts sufficient to support the claim[s]" alleged in the complaint. Matter of Queen City Recycle Center, Inc., Decision and Order of the Commissioner, December 12, 2013, at 3. Staff is required to support their motion for a default judgment with enough facts to enable the ALJ and the Commissioner to determine that staff has a viable claim (see Matter of Samber Holding Corp., Order of the Commissioner, March 12, 2018, at 1 [citing Woodson v Mendon Leasing Corp., 100 NY2d 62, 70-71 (2003)]; see also State v Williams, 44 AD3d 1149, 1151-1152 [3d Dept 2007] and CPLR 3215[f]).

The record establishes that: (i) Department staff served the notice of hearing and complaint upon respondent; (ii) respondent failed to file an answer to the complaint; and (iii) Department staff provided its proposed order. Although respondent appeared at the adjudicatory hearing scheduled on April 18, 2018, as directed in the notice of hearing, respondent provided no justifiable excuse for its default and no meritorious defense to liability.

At the close of Department staff's direct case, staff moved for a default judgment. The motion was unopposed. Because the parties had executed the Joint Statement of Stipulated Facts, wherein the facts constituting the violations alleged in the complaint were admitted, I determined staff had a viable claim, granted staff's motion as to liability and allowed the hearing to proceed on penalty.

Additionally, the proof adduced at the hearing demonstrates by a preponderance of the evidence that respondent failed to pay the regulatory program fees, penalties and interest for 2015 and 2016, in violation of ECL 72-0201(1)(a) and 6 NYCRR 481.2 (see Findings of Fact Nos. 8-12). The Department is entitled to judgment upon the facts proven.

Penalty

Department staff seeks a civil penalty in the amount of two thousand dollars ($2,000). ECL 71-4103 states that "[a]ny person who violates any provisions of article seventy-two of this

chapter or the regulations promulgated thereunder shall be liable for a civil penalty of up to one thousand dollars in addition to any amount assessed as a penalty pursuant to subdivision five of Section 72-0201 of this chapter." In support of the penalty requested, staff argues that the Department made several attempts to collect the regulatory program fees owed for 2015 and 2016 and expended a great deal of staff resources in the effort. Department staff sent several invoices and notices for each year as well as a demand letter in 2017 (see Findings of Fact Nos. 8-12; Staff Exhibit 2, ¶¶ 8-10, 15-16). In addition, staff attempted to settle the matter by order on consent (see Staff Exhibit 2, ¶¶ 16-18; Staff Exhibit 3). Therefore, staff argues the maximum penalty of $1,000 for each year's invoices that respondent failed to pay is supported and appropriate.

Respondent argues that respondent lacks the resources to pay the regulatory program fees (see Testimony of Gary Rowe [Rowe Testimony]). Respondent also claims that the State of New York promised to provide up to five million dollars in capital funding for construction of the Central New York Raceway project, but the State withdrew its support (id.). In support of respondent's representations regarding the State commitment to the project, respondent offered a purported agreement in principal between the State and respondent dated August 31, 2015 (Respondent's Exhibit A) and a March 28, 2016 letter from Empire State Development (ESD) to respondent (Respondent's Exhibit B) confirming that New York State was willing to provide up to $5 million in State and Municipal capital funding.

According to Mr. Rowe, respondent had been preparing the site when respondent received notice from the State, within 60 days of the March 28, 2016 letter from ESD, that the State would not provide the promised funding (see Rowe Testimony). At that point, site preparation ceased (id.). Although respondent's exhibits were received into evidence and may be relevant for the purpose of demonstrating that the State supported respondent's project in 2016, the exhibits are not probative regarding respondent's assertion that the State withdrew its support or, what is relevant here, respondent's inability to pay penalties.

Respondent does not dispute that the fees are owed, but claims the lack of State funding made the project financially unviable (see Rowe Testimony). Without the State funding, respondent claims that it could not afford to pay the regulatory program fees (id.). Therefore, respondent argues, the deadlines for paying the regulatory program fees should be waived (id.).

The problem with respondent's argument, as pointed out by Department staff during the hearing, is that the majority of the regulatory program fees ($8,437.00) and penalties and interest were incurred in 2015 before any representations were made by the State. Moreover, respondent's obligation to pay regulatory program fees began on September 22, 2014 (see Staff Exhibit 7, Acknowledgement Letter at 1) when respondent obtained coverage under SPDES General Permit No. GP-0-10-001, and that obligation was not contingent upon respondent receiving private or public funding for its project. In fact, coverage under the General Permit was conditioned on respondent paying regulatory program fees and an initial authorization fee (see Finding of Fact No. 6; Staff Exhibit 7, Acknowledgement Letter at 2).

Staff also argued that there are no statutory or regulatory provisions for waiving regulatory program fee deadlines. Moreover, waiving respondent's obligation to pay regulatory

program fees in a timely manner would be unfair to those who voluntarily comply with the law by paying their fees on time. Respondent continues to be covered by SPDES General Permit No. GP-0-15-002 and paid the regulatory program fees owed for 2017 (see Finding of Fact No. 13).

The record in this matter demonstrates that respondent had several opportunities to dispute the fees and penalties, but did not do so. In addition, Department staff made many attempts to collect the unpaid regulatory program fees, penalties and interest without any payment or response from respondent. Accordingly, I find staff's penalty request of $2,000 is supported and appropriate.

Conclusion of Law

By failing to pay the regulatory program fees for 2015 and 2016, respondent violated ECL 72-0201(1)(a) and 6 NYCRR 481.2.

Recommendation

Based upon the foregoing, I recommend that the Commissioner issue an order:

1. Granting Department staff's motion for default judgment, holding respondent Central New York Raceway Park, Inc. in default pursuant to the provisions of 6 NYCRR 622.15;

2. Holding that, based upon the proof adduced at the adjudicatory hearing, respondent Central New York Raceway Park, Inc. violated ECL 72-0201(1)(a) and 6 NYCRR 481.2 by failing to pay the regulatory program fees for 2015 and 2016;

3. Directing respondent Central New York Raceway Park, Inc. to pay the outstanding regulatory program fees, penalties and interest for 2015 and 2016 in the amount of eleven thousand six hundred forty-two and 36/100 dollars ($11,642.36) within thirty (days) of service of the Commissioner's order on respondent;

4. Directing respondent Central New York Raceway Park, Inc. to pay a civil penalty in the amount of two thousand dollars ($2,000) within thirty (30) days of service of the Commissioner's order on respondent; and

5. Directing such other and further relief as he may deem just and appropriate.

_____/s/_____
Michael S. Caruso
Administrative Law Judge

Dated: Albany, New York
May 3, 2018

EXHIBIT CHART – HEARING

Matter of New York Central Raceway Park, Inc.

April 18, 2018

CO7-20170726-56

Exhibit No.	Description	ID'd?	Rec'd?	Offered By	Notes
1	Notice of Hearing, Complaint, Exhibit A (Invoice for 2015 Regulatory Fees, Penalties & Interest, Invoice for 2016 Regulatory Fees, Penalties & Interest), and Statement of Readiness, all dated February 21, 2018	✓	✓	Department Staff	
2	Joint Statement of Stipulated Facts, dated April 13, 2018	✓	✓	Department Staff	
3	Affidavit of Service of Bonnie Pedone, sworn to April 10, 2018 with Exhibit A (Demand letter from Lisa A. Covert, Esq. to Glenn Donnelly, CNY Raceway Park, dated April 12, 2017 with 2015 and 2016 Invoices for Regulatory Fees, Penalties & Interest attached) and Exhibit B (USPS Certified Mail Receipt)	✓	✓	Department Staff	
4 A-D	Invoices for 2015 Regulatory Fees, Penalties & Interest dated (A) August 27, 2015, (B) December 3, 2015 and (C) April 23, 2016; and Invoices for 2016 Regulatory Fees, Penalties & Interest dated (D) October 31, 2016, (E) December 20, 2016, (F) January 29, 2017 and (G) February 28, 2017	✓	✓	Department Staff	

Exhibit No.	Description	ID'd?	Rec'd ?	Offered By	Notes
5	Screen Shot of DEC Database showing the Invoice for the 2017 Regulatory Fees as paid, with copy of deposited check and Invoice for 2017 Regulatory Fees attached	✓	✓	Department Staff	
6	Demand letter from Lisa A. Covert, Esq. to Glenn Donnelly, CNY Raceway Park, dated April 12, 2017 with 2015 and 2016 Invoices for Regulatory Fees, Penalties & Interest attached	✓	✓	Department Staff	
7	Notice of Intent submitted by CNY Raceway Park, dated September 10, 2014 with Acknowledgement Letter dated September 23, 2014 attached	✓	✓	Department Staff	
A	Super Dirt Week Multi-Party Term Sheet, dated August 31, 2015	✓	✓	Respondent	Received over Staff's foundational and relevancy objections
B	Letter from Howard Zemsky, President & CEO, Empire State Development, Commissioner, NYS Department of Economic Development to Glenn Donnelly, President, CNYRP, dated March 28, 2016	✓	✓	Respondent	Received over Staff's foundational and relevancy objections