

**STATE OF CONNECTICUT**

**V.**

**ESTATE OF JOSEPH SAVAGE**

**PATRICIA BROWN (EXECUTRIX)**

**UNILATERAL ORDER NO. 2019001DEEP**

**Date Issued:** 6/14/2019

A. The Commissioner of Energy and Environmental Protection (“the Commissioner”) finds:

1. Joseph Savage was the owner of property located at 10 Brewster Street, in Bridgeport, Connecticut (the “Site”). His estate (“Respondent Estate of Joseph Savage”) became the owner of the Site after his death.
2. Respondent Estate of Joseph Savage was or has engaged in the business of conducting commercial/industrial repairs and painting of ships, boats and other maritime vessels at the Site, which property is more fully described in a deed at the Bridgeport Land Records at Book 3664, Page 014 and Assessor’s Map 9, Block 0224, and Lot 11A.
3. On January 28, 1997, Patricia Brown of 347 Woodside Circle, Fairfield, CT 06825 (“Respondent Brown”) was appointed the Executrix by the State of Connecticut, Court of Probate, District of Fairfield, and Estate of /in the Matter of Joseph J. Savage, deceased.
4. Respondent Brown is also listed as a co-owner according to the ‘Owner of Record’ history in the City of Bridgeport Land Records, Book 7333, Page 0168.
5. Collectively hereinafter Respondent Estate of Joseph Savage and Respondent Brown, Executrix will be referred as the “Respondents”
6. The Site is a non-notifier for RCRA hazardous waste activities and borders Cedar Creek to the east and Burr Creek to the north.
7. The Site was the subject of an U.S. Environmental Protection Agency (“EPA”) removal action in or around 1996-1998 that resulted in EPA installing a temporary cap over an area of contaminated soil. On April 15, 1997, Respondent Brown recorded a deed restriction on the Site at the request of EPA. The deed restriction restricts the disturbance of the cap installed by EPA without the prior review

and approval of the Remediation Division of the Connecticut Department of Energy and Environmental Protection (“Remediation Division”) and the City of Bridgeport Health Department.

8. On November 14, 2005, the Department’s Remediation Division received notification under the requirements of Section 22a-6u of the Connecticut General Statutes (“CGS”) from the Respondents that pollution detected in groundwater that discharges to a surface water body may pose a risk to aquatic life, which triggers notification of a significant environmental hazard (“SEH”).
9. On June 12, 2018, an inspection was conducted by the Department’s Waste Engineering and Enforcement Division (“WEED”) at the Site and found an unpermitted solid waste facility. Among other things, that inspection revealed that portions of the Site were being used for the disposal of greater than ten (10) cubic yards of solid waste, specifically, municipal solid waste (“MSW”), construction and demolition waste, bulky waste, plastic, vinyl, scrap metal, scrap tires and other solid wastes.
10. Based on the Department’s findings at its June 12, 2018 inspection, the Respondents have established, constructed and operated a solid waste Facility without a permit from the Commissioner.
11. By virtue of the facts set forth in paragraphs A.1. through A.10., Respondents have violated Sections 22a-208a(b), 22a-208c and 22a-427 of the CGS; and Sections 22a-209-2, 22a-209-4, 22a-209-7, and 22a-209-8 of the Regulations of Connecticut State Agencies (“RCSA”).
12. On August 30, 2018, based on the Department’s inspection referenced in paragraph A.9. above, the Department issued Notice of Violation No. WSWDS18038 (“NOV”) to Respondents. The NOV cited the violations noted in paragraph A.10 of this Order.
13. On October 16, 2018 and December 13, 2018, the Department sent Notice of No Response Letters and other pertinent information to the Respondents notifying them that a response to NOV WSWDS18038 was required. To date, the Respondents had not demonstrated that the violations asserted in the NOV were corrected or otherwise demonstrated compliance.
14. On March 29, 2019, an inspection was conducted by the Department’s Land & Water Resources Division at the Site and found unauthorized, in-water structures, waterward of the Coastal Jurisdiction Line, located along its east and southeastern shoreline, consisting of approximately:
  - a. a derelict 60-foot long by 30-foot wide pile and timber travel lift;
  - b. three derelict 30-foot wide by 100-foot wide timber work barges arranged side by side; and
  - c. 675 linear feet of riprap armor stone.



15. By virtue of the facts set forth in paragraphs A.1. through A.5. and A.14. above, Respondents have maintained the structures in violation of Section 22a-361 of the CGS.

B. Pursuant to Sections 22a-6, , 22a-208, 22a-225, 22a-361, 22a-424, and 22a-432 of the CGS, the Commissioner orders Respondents as follows:

1. Qualified Consultant. On or before **thirty (30)** days after issuance of this Order, Respondents shall retain one or more qualified consultant(s) acceptable to the Commissioner to prepare the documents and implement or oversee the actions required by this Order and shall, by that date, notify the Commissioner in writing of the identity of such consultant(s). Said qualified consultant(s) shall be retained until this Order is fully complied with, and, within ten (10) days after retaining any consultant other than one originally identified under this paragraph, Respondents shall notify the Commissioner in writing of the identity of such other consultant. Respondents shall submit to the Commissioner a description of a consultant's education, experience and training which is relevant to the work required by this Order within ten (10) days after the Commissioner requests such a description. The consultant(s) retained to prepare the documents and implement or oversee the actions required by this Order must be an independent, registered professional engineer in the State of Connecticut ("P.E.") or a Licensed Environmental Professional ("LEP") licensed in accordance with Section 22a-133v-1 through 8 of the RCSA (the Licensed Environmental Professional Regulations). Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.
2. Compliance Assurance. Respondents shall comply with the applicable provisions of Connecticut's Solid Waste Management Statutes and Regulations including Sections 22a-208a and 22a-208c of the CGS and Sections 22a-209-1 through 22a-209-17 of the RCSA. Respondents shall do so as follows:
  - a. Prohibition. Respondents shall not receive, process or dispose of solid waste at the Site unless a valid permit, issued by the Commissioner, is first obtained. Respondents shall not establish, construct, or operate a solid waste facility without the required permits issued by the Commissioner.
  - b. Access to the Site. Respondents shall control access to the Site and prevent unauthorized activities at the Site.
  - c. Remove Solid Waste. Respondents shall remove all solid waste from the Site as follows:
    - i. Plan for Removal. On or before **sixty (60) days** after the qualified consultant required in paragraph B.1. is approved, Respondents shall submit a plan, for the Commissioner's review and written approval, for the removal and disposal of all solid waste from the Site.

This plan shall be prepared by the consultant approved by the Commissioner pursuant to paragraph B.1., and shall include, at a minimum:

1. an inventory of the type, quantity and location of all solid waste on the Site. Hazardous waste determinations must be performed on all those materials which must be disposed of as waste;
  2. a description of the procedure(s) to be used for removal of solid waste from the Site;
  3. identification of the permitted disposal facilities to which the solid waste will be delivered; and
  4. a schedule to perform the work to be conducted under the plan.
- ii. Implement Removal Plan. On or before **forty-five (45) days** after the plan required in paragraph B.2.c.i. is approved, Respondents shall initiate implementation of the approved plan. Respondents shall complete removal of all solid waste from the Site in accordance with the schedule as approved by the Commissioner. Respondents shall, contemporaneously with the removal of each load of solid waste from the Site, create and maintain a written log of each load of solid waste removed from the Site pursuant to the approved plan, including: the name of the transportation company and the vehicle registration number for each load of solid waste transported from the Site; the quantity and type of solid waste removed; and the name of the receiving waste facility.
- iii. Certify Removal. Within **fifteen (15) days** after completion of the solid waste removal required by paragraph B.2.c.ii. above, the Respondents and their consultant shall certify to the Commissioner in writing that the actions have been completed as approved and shall submit a copy of the written log maintained in accordance with paragraph B.2.c.ii. above, transportation records (copies of manifests, bills of lading, etc.) and the receipts from the permitted disposal facilities.

3. Significant Environmental Hazard.

- a. On or before **one hundred and twenty (120) days** after the qualified consultant required in paragraph B.1. is approved, Respondents shall submit for the Commissioner's review and written approval a report prepared by the qualified consultant approved by the Commissioner pursuant to paragraph B.1. This report shall provide recommendations for further action and/or monitoring to be performed at the Site and a schedule for any further action or monitoring and shall include, analysis of samples from the monitoring wells to evaluate current groundwater conditions and colloidal/dissolved pollution and a calculation of the Site specific dilution or attenuation of the pollutants in the receiving water.



- b. The Respondents shall implement any recommendations for further action in the approved report and comply with all applicable provisions of the Property Transfer Law as specified in 22a-134 through 22a-134e of the CGS and with the remediation standard regulations (Regulations of Connecticut State Agencies Sections 22a-133k-1 through 22a-133k-3 ("RSRs")).
4. Respondents shall correct the violations set forth in paragraph A.14. of this Order as follows:
  - a. On or before **ninety (90) days** after issuance of this Order, Respondents shall submit a COP application to retain the riprap shoreline armor stone and removal of the in-water derelict structures described in paragraph A.14., above. Such application shall include all information required on forms prescribed by the Commissioner, including a justification for the purpose and need for the riprap shoreline armor stone and a detailed construction methodology for the removal and disposal of the in-water derelict structures, and their consistency with all applicable state statutes and policies.
  - b. In the event that the Commissioner's final determination on the COP application submitted pursuant to paragraph B.4.a., above, requires modification of or denies the request to retain the riprap shoreline armor stone, the Respondents shall, not later than **thirty (30) days** following issuance of a final decision, submit a timetable to the Commissioner for his review and written approval for the modification or removal of the existing structure(s) in accordance with the final decision. Upon the Commissioner's written approval, the Respondents shall modify or remove the in-water derelict structures in accordance with the approved timetable and conditions of the final determination and associated COP.
5. Full compliance. Respondents shall not be considered in full compliance with this Order until all actions required by this Order have been completed as approved and to the Commissioner's satisfaction.
6. Sampling. All sampling shall be performed in accordance with procedures specified or approved in writing by the Commissioner, or, if no such procedures have been specified or approved, in accordance with most recent final version of the EPA publication SW-846, entitled "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," the most recent final version of the Department's "Site Characterization Guidance Document," and relevant policies and guidelines issued by the Commissioner.
7. Sample analyses. All sample analyses which are required by this Order and all reporting of such sample analyses shall be conducted by a laboratory certified by the Connecticut Department of Public Health and approved to conduct such analyses.
8. Approvals. Respondents shall use best efforts to submit to the Commissioner all documents required by this Order in a complete and approvable form. If the Commissioner notifies Respondents that

any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondents shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty (30) days of the Commissioner's notice of deficiencies. In approving any document or other action under this Order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Order. Nothing in this paragraph shall excuse noncompliance or delay.

9. Definitions. As used in this Order, "Commissioner" means the Commissioner or a representative of the Commissioner. "Hazardous substances" shall be defined as that term is defined in 42 U.S.C. §9601, but shall not include any substance regulated as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act.
10. Dates. The date of "issuance" of this order is the date the Order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this Order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this Order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this Order, the word "day" as used in this Order means calendar day. Any document or action which is required by this Order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.
11. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Order shall be signed by Respondents or, if Respondents are not an individual, by Respondents' chief executive officer or a duly authorized representative of such officer, as those terms are defined in §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and each such individual shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."
12. False Statements. Any false statement in any information submitted pursuant to this Order may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.



13. Notice of transfer; liability of Respondents. Until Respondents have fully complied with this Order, Respondents shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this Order or after obtaining a new mailing or location address. Respondents' obligations under this Order shall not be affected by the passage of title to any property to any other person or municipality.
14. Commissioner's powers. Nothing in this Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for violations of law, including but not limited to those described in this Order. If at any time the Commissioner determines that the actions taken by Respondents pursuant to this Order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented any pollution, the Commissioner may institute any proceeding to require Respondents to undertake further investigation or further action to prevent or abate pollution.
15. Respondents' obligations under law. Nothing in this Order shall relieve Respondents of other obligations under applicable federal, state and local law.
16. No assurance by Commissioner. No provision of this Order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondents pursuant to this Order will result in compliance or prevent or abate pollution.
17. No effect on rights of other persons. This Order neither creates nor affects any rights of persons that are not parties to this Order.
18. Notice to Commissioner of changes. Within fifteen (15) days of the date Respondents become aware of a change in any information submitted to the Commissioner under this Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondents shall submit the correct or omitted information to the Commissioner.
19. Notification of noncompliance. In the event that Respondents become aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this Order or of any document required hereunder, Respondents shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, Respondents shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondents shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondents shall not excuse noncompliance or delay, and the Commissioner's

approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

20. Submission of documents. Any document required to be submitted to the Commissioner under paragraphs B.1.a., b., c. and d. this Order shall, unless otherwise specified in this Order or in writing by the Commissioner, be directed to:

Denver Dixon, Sanitary Engineer  
Department of Energy and Environmental Protection  
Bureau of Materials Management and Compliance Assurance  
Waste Engineering and Enforcement Division  
79 Elm Street  
Hartford, Connecticut 06106-5127

Any document required to be submitted to the Commissioner under paragraphs B.1.c., e., and f. of this Order shall, unless otherwise specified in this Order or in writing by the Commissioner, be directed to:

Carolyn Fusaro, Environmental Analyst 2  
Bureau of Water Protection & Land Reuse  
Remediation Division  
Department of Energy and Environmental Protection  
79 Elm Street  
Hartford, Connecticut 06106-5127

Any document required to be submitted to the Commissioner under paragraph B.2. of this Order shall, unless otherwise specified in this Order or in writing by the Commissioner, be directed to:

Kevin Zawoy, Environmental Analyst 3  
Bureau of Water Protection & Land Reuse  
Land and Water Resources Division  
Department of Energy and Environmental Protection  
79 Elm Street  
Hartford, Connecticut 06106-5127

21. Joint and several liability. Respondents shall be jointly and severally liable for compliance with this Order.

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State of Connecticut

v.

Estate of Joseph J. Savage

Patricia Brown, Executrix

Page 9 of 9

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Issued as an Order of the Commissioner of Energy and Environmental Protection.

  
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Betsey Wingfield

Deputy Commissioner

Department of Energy and Environmental Protection

  
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Date

UNILATERAL ORDER NO. 2019001DEEP

City of Bridgeport Land Records