

STATE OF CONNECTICUT

v.

Brian Riendeau
Karl Riendeau
Riendeau & Sons Logging, L.L.C.

CO # COEC201902

Date Issued: 12/16/19

CONSENT ORDER

A. With the agreement of Supervising Forest Products Harvester Brian Riendeau ("Respondent Brian Riendeau"), Supervising Forest Products Harvester Karl Riendeau ("Respondent Karl Riendeau"), and Riendeau & Sons Logging, L.L.C. ("Respondent Riendeau & Sons Logging, L.L.C."), collectively ("Respondents"), the Commissioner of Energy and Environmental Protection ("Commissioner") finds:

1. Respondent Brian Riendeau has a Forest Practitioner Certification, issued by the Department of Energy and Environmental Protection ("DEEP") pursuant to Conn. Gen. Stat. §23-65h, with an expiration date of October 1, 2020.
2. Respondent Karl Riendeau has a Forest Practitioner Certification, issued by DEEP pursuant to Conn. Gen. Stat. § 23-65h, with an expiration date of October 1, 2020.
3. Respondent Riendeau & Sons Logging, L.L.C. is a domestic limited liability corporation organized with a business address of 109 Supina Road, Ashford, CT 06278.

Lebanon Site One

4. Respondent Brian Riendeau, on behalf of Respondent Riendeau & Sons Logging, L.L.C., conducted site activities, including timber harvesting, on 83 acres of property located on Levita Road, Lebanon, CT ("**Lebanon Site One**") owned by Barry W. Botticello and Victor T. Botticello.
5. On February 28, 2017, the Town of Lebanon Inland Wetland Commission's Timber Harvest

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Notification Form signed by Respondent Brian Riendeau and agent for the Respondent, Scott Person, was submitted to the Town of Lebanon, and on such form, Respondent and his agent:

- a. Failed to identify the entire harvest area by omitting a three to five acre area of Lebanon Site One that was harvested by Respondents;
 - b. Identified a 40,720 square foot area that was harvested by Respondents on Lebanon Site One as a "no harvest area";
 - c. Failed to identify a stream crossing that was installed to cross into the 40,720 square foot harvest area along the south boundary of Lebanon Site One, as referenced in 5.b., above;
 - d. Stated that there was no perennial stream on the subject property, whereas further inspection by the Town of Lebanon Inland Wetland Commission revealed that a perennial stream did exist;
 - e. Failed to identify a stream crossing over the perennial stream on the subject property, as referenced in 5.d., above; and
 - f. Failed to implement DEEP's 2007 Best Management Practices for Water Quality While Harvesting Forest Products ("BMP's").
6. Respondent Brian Riendeau failed to submit a corrected Timber Harvest Notification Form to the Town of Lebanon Inland Wetland Commission that included the harvest area referenced in 5.a and 5.b., above, and the stream crossings referenced in 5.c and 5.e., above.
7. Based on DEEP site inspections on or about May 3 and May 9, 2017, Respondent Brian Riendeau's logging operation at the Lebanon Site One was not conducted in accordance with applicable BMPs. The following violations occurred:

- a. Respondent failed to use erosion control measures to protect disturbed areas;
- b. Respondent failed to reduce the speed and volume of runoff;
- c. Respondent failed to divert runoff away from disturbed areas;
- d. Respondent failed to consider weather and ground conditions when scheduling road building and harvesting operations;
- e. Respondent failed to locate landing away from natural drainages and divert runoff away from streams;
- f. Respondent failed to install additional temporary BMP's prior to severe storms; and
- g. Respondent failed to remove the material from a stream crossing following completion of harvest.

The Respondent Brian Riendeau's failures in 7.a through 7.g., above, resulted in soil sediment

flowing into streams and wetlands. The estimated area of impact by sediments in the wetlands area exceeds 5,000 square feet. The estimated amount of sediment displaced from the ruts created by the wheel tracks from the logging operation is approximately 95 cubic yards.

8. Based on the Respondents' Timber Harvest Notification Form submitted to the Town of Lebanon Inland Wetland Commission for Lebanon Site One, the operation was a commercial forest practice pursuant to Conn. Gen. Stat. §23-65f.
 9. With respect to Lebanon Site One, and by virtue of the above, the Respondent Brian Riendeau made or issued a false statement(s) or false information in violation of §23-65j-1(c)(5) of the Regulations of Connecticut State Agencies.
 10. With respect to Lebanon Site One, and by virtue of the above, the Respondents failed to comply with the requirements of the BMPs as committed to on the Town of Lebanon Inland Wetland Commission's Timber Harvest Notification Form.
- Lebanon Site Two**
11. Respondent Brian Riendeau, on behalf of Riendeau & Sons Logging, L.L.C., conducted preparatory site activities, including timber harvesting, on 186 acres of property located on Waterman and Fowler Roads, Lebanon, CT ("**Lebanon Site Two**") owned by Paul Publick.
 12. On June 24, 2018, the Town of Lebanon Inland Wetland Commission's Timber Harvest Notification Form signed by Respondents Brian Riendeau and Riendeau & Sons Logging, L.L.C. stated there were no perennial streams, vernal pools, or wetlands on Lebanon Site Two. In addition, the application indicated there were no stream or drainage crossings to be made.
 13. Based on the Respondents' Timber Harvest Notification Form submitted to the Town of Lebanon Inland Wetland Commission for Lebanon Site Two, the operation was a commercial forest practice pursuant to Conn. Gen. Stat. §23-65f.
 14. Based on a review by certified forester and soil scientist Joe Theroux, retained by the Town, Lebanon Site Two contained three perennial streams, five vernal pools and significant wetlands, none of which were identified by the Respondents. In addition, Mr. Theroux determined three stream or drainage crossings are required to access all the areas designed by the Respondent Brian Riendeau to be harvested, none of which were identified by Respondent Brian Riendeau to the Town of Lebanon Inland Wetland Commission.
 15. With respect to Lebanon Site Two, and by virtue of the above, the Respondent Brian Riendeau made or issued a false statement(s) or false information in violation of §23-65j-1(c)(5) of the Regulations of Connecticut State Agencies.

Stafford Site

16. Respondent Karl Riendeau, on behalf of Respondent Riendeau & Sons Logging, L.L.C., was conducting site activities, including timber harvesting, on 54 acres of property located on Dunay Road, Stafford, CT ("**Stafford Site**") owned by Joseph J. Dunay, Junior and Michael E. Dunay, Junior.
 17. Based on DEEP's December 18, 2017 site inspection, the logging operation at the Stafford Site was not conducted in accordance with applicable BMPs in and around the Aldon Brook, a perennial blue line stream, and trees had been purposely felled and cut into logs with the tops of the trees damming such stream in four separate locations.
 18. Based on the Respondents' Timber Harvest Notification Form submitted to the Stafford Inland Wetlands Commission for the Stafford Site, the operation was a commercial forest practice pursuant to Conn. Gen. Stat. §23-65f.
 19. On January 3, 2018, DEEP Forestry Program Supervisor Doug Emmerthal estimated the volume of timber removed from the Stafford Site to be 129,000 board feet based upon 43 acres of actual harvest at 3,000 board feet per acre. This operation conducted by Respondents removed in excess of twenty-five thousand board feet, the amount that qualifies the harvest as a commercial forest practice pursuant to Conn. Gen. Stat. §23-65f.
 20. Therefore, with respect to the Stafford Site, and by virtue of the above, Respondents failed to comply with the requirements of applicable laws in violation of §23-65j-1(c)(7) of the Regulations of Connecticut State Agencies.
- B. With the agreement of Respondents, the Commissioner, acting under Conn. Gen. Stat. §§ 22a-5, 22a-5a, 22a-6, and 23-65h orders as follows:

1. Oversight.

- a. Upon issuance of this Consent Order and until calendar year 2022, Respondents shall notify the Commissioner at least one day prior to participating in any Commercial Forest Practices, utilizing the form attached hereto as Exhibit A.
- b. Upon issuance of this Consent Order and until calendar year 2022, Respondents shall ensure that a copy of any and all applications for Commercial Forest Practices, including Town Inland Wetland Commission's Timber Harvest Notification Forms, submitted to any municipality, for which Respondents assisted in preparation of are verified by a Forester other than the Respondents. Such Forester shall verify the forms are accurate and complete and such forms shall be submitted to the Commissioner utilizing the form attached hereto as Exhibit B. Such Forester must be certified pursuant to Conn. Gen. Stat. § 23-65h.
- c. Upon issuance of this Consent Order and until calendar year 2022, Respondents shall ensure that any and all Commercial Forest Practices for which Respondents

assisted in preparation, and/or operation of, are inspected by a Forester other than the Respondents, and certified as complete to the standards of the municipality's Inland Wetland and Watercourses Commission. Such Forester shall certify that any and all such Commercial Forest Practices are complete to these standards and such certification shall be submitted to the Commissioner utilizing the form attached hereto as Exhibit C. Such Forester must be certified pursuant to Conn. Gen. Stat. § 23-65h.

- d. Whenever Respondents participate in any manner in any Commercial Forest Practices, Respondents shall utilize best management practices set forth in the booklet prepared by DEEP Division of Forestry titled "Best Management Practices for Water Quality while Harvesting Forest Products, 2012 Connecticut Field Guide" (Exhibit D).

2. Full compliance. Respondents shall not be considered in full compliance with this Consent Order until all actions required by this Consent Order have been completed to the Commissioner's satisfaction.
3. Civil penalty. On or before fourteen (14) days after the issuance of this Consent Order, Respondents shall pay a penalty of ten thousand dollars (\$10,000), as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraphs A.4. through A.20. of this Consent Order. The penalty shall be paid in accordance with the provisions of paragraph B.5. of this Consent Order.
4. Supplemental Environmental Project
 - a. In addition to the penalty referenced in paragraph B.3., Respondents have agreed to fund a supplemental environmental project ("SEP") or projects as selected by the Department according to its February 15, 1996 "Policy on Supplemental Environmental Projects." Such SEPs shall be limited to projects that underscore to the forest products industry the importance of complying with environmental laws or disseminating technical information about the means of complying with environmental laws, including, but not limited to, funding and sponsoring industry-wide seminars directly related to correcting widespread or prevalent violations within the forest products industry, workshops and programs promoting the effective use of best management practices, and funding research projects relating to environmental protection or conservation of natural resources.
 - b. Therefore, on or before March 1, 2020, Respondents shall pay one quarter of **forty thousand dollars (\$40,000), ten thousand dollars (\$10,000)**, as the first installment of the penalty to the **Statewide SEP Account**.

On or before June 1, 2020, Respondents shall pay one quarter of **forty thousand dollars (\$40,000), ten thousand dollars (\$10,000)**, as the second installment of the penalty to the **Statewide SEP Account**.

On or before September 1, 2020, Respondents shall pay one quarter of **forty thousand dollars (\$40,000), ten thousand dollars (\$10,000)**, as the third installment of the penalty to the **Statewide SEP Account**.

On or before December 1, 2020, Respondents shall pay one quarter of **forty thousand dollars (\$40,000), ten thousand dollars (\$10,000)**, as the final installment of the penalty to the **Statewide SEP Account**.

- c. The payment shall be mailed or personally delivered to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127, and shall be by certified or bank check payable to the "Connecticut Department of Energy and Environmental Protection," with notation thereon "Statewide SEP Account" and "Consent Order No. COEC201902."
- d. If Respondents fail to fund the SEP in accordance with paragraph **B.4.b.** above, Respondents shall immediately pay a civil penalty of **forty thousand dollars (\$40,000)**. Respondent shall pay such civil penalty in accordance with the provisions of paragraph **B.5.**, of this consent order.
- e. Respondents shall not claim or represent that any SEP payment made pursuant to this consent order constitutes an ordinary business expense or charitable contribution or any other type of tax deductible expense, and Respondents shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.
- f. If and when Respondents disseminate any publicity, including but not limited to any press releases regarding funding a SEP, Respondents shall include a statement that such funding is in partial settlement of an enforcement action brought by the Commissioner.

5. Payment of penalties. Payment of the penalties under this Consent Order shall be mailed or personally delivered to Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127, and shall be by certified or bank check payable to "Connecticut Department of Energy and Environmental Protection". The check shall state on its face, "Bureau of Natural Resources, Forestry Division Civil Penalty," and the consent order number identified on the first page of this Consent Order. A copy of the check and any transmittal letter shall also be sent to Ms. Sheila Hoefle in the Bureau of Natural Resources at the same address.

6. Approvals. Respondents shall use best efforts to submit to the Commissioner all documents required by this Consent 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 Consent 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 Consent Order. Nothing in this paragraph shall excuse noncompliance or delay.

7. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner. "Commercial forest practices" means any forest practices performed by a person other than the owner of subject forest land for remuneration, or which, when performed, yield commercial forest products. "Commercial forest products" means wood products harvested from a tract of forestland in excess of fifty cords or one hundred fifty tons or twenty-five thousand board feet, whichever measure is appropriate, in any twelve-month period. "Forest practice" means any activity which may alter the physical or vegetative characteristics of any forest land which is undertaken in connection with the harvest of commercial forest products unless such harvest is undertaken pursuant to the conversion of forest land to other uses and such conversion has been approved by (A) the planning commission, zoning commission, or combined planning and zoning commission, and (B) if the land includes any wetlands or if the municipality within which the land is located regulates forest practices under Conn. Gen. Stat. §23-65k, the wetlands agency of the municipality.
8. Dates. The date of "issuance" of this Consent Order is the date the Consent 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 Consent Order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this Consent 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 Consent Order, the word "day" as used in this Consent Order means calendar day. Any document or action which is required by this Consent 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.
9. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Consent Order shall be signed by Respondents, and each of them, or, if Respondent(s) is not an individual, by its 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."

10. Noncompliance. This Consent Order is a final order of the Commissioner with respect to the matters addressed herein, and is non-appealable and immediately enforceable.
11. False statements. Any false statement in any information submitted pursuant to this Consent Order may be punishable as a criminal offense under Conn. Gen. Stat. § 53a-157b and any other applicable law.
12. Notice of transfer; liability of Respondents. Until Respondents have fully complied with this Consent Order, Respondents, and each of them, 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 Consent Order or after obtaining a new mailing or location address. Respondents' obligations under this Consent Order shall not be affected by the passage of title to any property to any other person or municipality.
13. Commissioner's powers. Nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondents pursuant to this Consent Order have not successfully corrected all violations, the Commissioner may institute any proceeding to require Respondents to undertake further investigation or further action to prevent or abate violations.
14. Respondents' obligations under law. Nothing in this Consent Order shall relieve Respondents of other obligations under applicable federal, state and local law.
15. No assurance by Commissioner. No provision of this Consent 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 Consent Order will result in compliance.
16. No effect on rights of other persons. This Consent Order neither creates nor affects any rights of persons or municipalities that are not parties to this Consent Order.
17. Notice to Commissioner of changes. Within 15 days of the date Respondents become aware of a change in any information submitted to the Commissioner under this Consent Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondents, and each of them, shall submit the correct or omitted information to the Commissioner.
18. Notification of noncompliance. In the event that Respondents become aware that they, or any one

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of them, did not or may not comply, or did not or may not comply on time, with any requirement of this Consent Order or of any document required here under, Respondents, and each of them, 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.

19. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order shall unless otherwise specified in this Consent Order or in writing by the Commissioner, be directed to:

Douglas Emmerthal, Program Specialist
Department of Energy and Environmental Protection
Division of Forestry
79 Elm Street, Hartford, Connecticut 06106-5127
Douglas.emmerthal@ct.gov

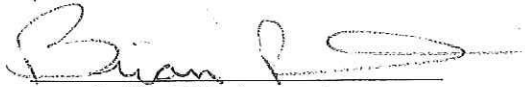
20. Joint and Several Liability. Respondents shall be jointly and severally liable for compliance with this Consent Order.

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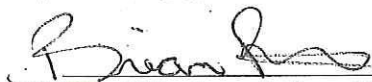
Respondents consent to the issuance of this Consent Order without further notice. The undersigned certify that they are fully authorized to enter into this Consent Order and to legally bind the Respondents to the terms and conditions of the Consent Order.


Brian Riendeau

11/18/19
Date


Karl Riendeau

11-18-19
Date

 
Riendeau & Sons Logging, L.L.C.

11-18-19
Date

Issued as a final Consent Order of the Commissioner of the Department of Energy and Environmental Protection on Dec. 16, 2019.


Katherine Dykes
Commissioner

12/16/2019
Date

Enclosure

CONSENT ORDER NO. COEC201902

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Certification of Mailing

On December 19, 2019, at _____ a.m./p.m., I mailed a certified copy of the Commissioner's executed Consent Order No. COEC201902 to the following, by placing it in the U.S. mail: 9414 8149 0158 5922 0914 59

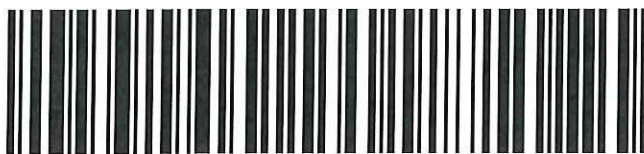
Sheila Hoefle

DEEP

79 ELM ST

HARTFORD CT 06106

USPS CERTIFIED MAIL™



9414 8149 0158 5922 0914 59

Brian Riendeau/Karl Riendeau
Riendeau & Sons Logging
109 Supina Road

Ashford CT 06278