

STATE OF CONNECTICUT

v.

Scott Person

CO # COEC201903

Date Issued: 12-2-19

CONSENT ORDER

A. The Commissioner of Energy and Environmental Protection ("Commissioner") finds:

1. Supervising Forest Products Harvester Scott Person ("Respondent") has a Forest Practitioner Certification, issued by the Department of Energy and Environmental Protection ("DEEP") pursuant to Connecticut General Statutes ("Conn. Gen. Stat.") §23-65h, with an expiration date of April 1, 2020.

Ashford Site

2. Respondent, an agent for Riendeau & Sons Logging, L.L.C., conducted site activities, including filing an application to conduct commercial forest practices, on 91 acres of property located on Nagy Road, Ashford, CT ("**Ashford Site**") owned by Issam Alhamzawi.
3. On August 27th, 2018, a Notification of Timber Harvest Form was signed by Respondent, and subsequently submitted to the Town of Ashford Inland Wetland Commission, and which such form failed to identify a stream/drainage crossings.
4. Based on the Respondent's Timber Harvest Notification Form submitted to the Town of Ashford Inland Wetland Commission for the Ashford Site, the operation was a commercial forest practice pursuant to Conn. Gen. Stat. §23-65f.
5. With respect to the Ashford Site, and by virtue of the above, Respondent 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.

Lebanon Site One

6. Respondent, an agent for Riendeau & Sons Logging, L.L.C., conducted site activities, including

filing an application to conduct commercial forest practices, on 83 acres of property located on Levita Road, Lebanon, CT ("**Lebanon Site One**") owned by Barry W. Botticello and Victor T. Botticello.

7. On February 28, 2017, the Town of Lebanon Inland Wetland Commission's Timber Harvest Notification Form was signed by Respondent, and subsequently submitted to the Town of Lebanon Inland Wetland Commission, and which such form:
 - a. Failed to identify the entire harvest area by not including a 3 to 5 acre area that was later determined by DEEP Foresters to have been harvested;
 - b. Identified a 40,720 square foot area as a no harvest area but it was later determined by DEEP Foresters to have been harvested;
 - c. Failed to identify a stream crossing that was installed to cross into the 40,720 square foot harvest along the south boundary as noted in 7.b above;
 - d. Stated that there was no perennial stream on the subject property but further inspection by the Town of Lebanon Inland Wetland Commission revealed that a perennial stream did exist; and
 - e. Failed to identify a stream crossing over the perennial stream on the subject property as noted in 7.d above.
8. Respondent failed to submit a corrected Timber Harvest Notification Form to the Town of Lebanon Inland Wetland Commission that included the harvest area referenced in 7.a and 7.b, above, and the stream crossings referenced in 7.c and 7.e, above.
9. Based on the Respondent's 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.
10. With respect to Lebanon Site One, and by virtue of the above, Respondent 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.

Lebanon Site Two

11. Respondent, an agent for Riendeau & Sons Logging, L.L.C., conducted site activities, including preparing an application to conduct commercial forest practices, on 186 acres of property located on Waterman and Fowler Roads, Lebanon, CT ("**Lebanon Site Two**") owned by Paul Puhlick.
 12. On July 7, 2018, the Town of Lebanon Inland Wetland Commission's Timber Harvest Notification Form prepared by Respondent, on behalf of Riendeau & Sons Logging, L.L.C., stated there were no perennial streams or vernal pools on Lebanon Site Two. In addition, the application indicated there were no stream or drainage crossings to be made.
 13. Based on the Respondent's 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, and five vernal pools, none of which were identified by the Respondent. In addition, Mr. Theroux determined three stream or drainage crossings are required to access all the areas designed by Respondent to be harvested, none of which were identified by Respondent to the Town of Lebanon Inland Wetland Commission.
 15. With respect to Lebanon Site Two, and by virtue of the above, Respondent 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.
- B. With the agreement of Respondent, the Commissioner, acting under Conn. Gen. Stat. §§ 22a-5, 22a-5a, 22a-6, and 23-65h orders as follows:
1. On or before thirty (30) days after the issuance of this Consent Order Respondent shall surrender his Forest Practitioner Certification, issued by DEEP pursuant to Conn. Gen. Stat. § 23-65h, with an expiration date of April 1, 2020, and he agrees to forego application for a new or renewed Forest Practitioner Certification, at any level, until the conditions described in paragraph B.2.a., have been met, and waives his right to a hearing in accordance with the provisions of chapter 54. Respondent Scott Person's current Forest Practitioner Certification shall be sent to Ms. Sheila Hoefle in the DEEP Bureau of Natural Resources at 79 Elm Street, Hartford, Connecticut 06106-5127.
 2. Conditions.
 - a. On or before one (1) year after the issuance of this Consent Order, Respondent may complete the Connecticut DEEP Municipal Inland Wetlands Agencies Training Videos located at www.ct.gov/deep/inlandwetlands. Completion of this training shall be accomplished in the presence of a DEEP Division of Forestry employee.
 - b. On or before one (1) year after the issuance of this Consent Order, Respondent may complete a basic wetland identification and delineation course which introduces the principal elements of wetland identification including wetland hydrology, hydric soils, and hydrophytic plants that meets the approval of DEEP. Such course shall not exceed sixteen (16) hours in length.

3. Examination. Upon completion of the conditions in paragraph B.2.a., Respondent may submit a completed Application for Commercial Forest Practitioner Certification. Upon successfully passing examination, certification will be issued unless grounds for denial pursuant to § 23-65o exist that have not been addressed by this Consent Order. Failure to complete the conditions in paragraph B.2.b., on or before one (1) year after the issuance of this Consent Order, will be grounds for denial or revocation and Respondent shall waive his right to a hearing in accordance with the provisions of chapter 54.
4. Oversight.
 - a. Upon completion of paragraph B.3., and for a period of two (2) years, Respondent 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 completion of paragraph B.3., and for a period of one (1) year, Respondent 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 Respondent assisted in preparation of are verified by a Forester other than the Respondent. 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 completion of the one year period described in paragraph B.4.b., the Respondent shall for a period of one year 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, are accurate and complete and such forms shall be submitted to the Commissioner utilizing the form attached hereto as Exhibit B.
5. Full compliance. Respondent 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.
6. Civil penalty. On or before fourteen (14) days after the issuance of this Consent Order, Respondent shall pay one half of the total penalty of ten thousand dollars (\$10,000), five thousand dollars (\$5,000), as the first installment of the civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraphs A.2. through A.15. of this Consent Order. The penalty shall be paid in accordance with the provisions of paragraph B.7. of this Consent Order.

On or before thirty (30) days after the issuance of this Consent Order, Respondent shall pay the remainder of the penalty, five thousand dollars (\$5,000), as the final installment of the civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraphs A.2. through A.15. of this Consent Order. The penalty shall be paid in accordance with the provisions of paragraph B.7. of this Consent Order.
7. 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.

8. Approvals. Respondent 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 Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent 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.
9. 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.
10. 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.
11. 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 Respondent, or if Respondent 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."

12. 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.
13. 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.
14. Notice of transfer; liability of Respondent. Until Respondent has fully complied with this Consent Order, Respondent 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. Respondent's obligations under this Consent Order shall not be affected by the passage of title to any property to any other person or municipality.
15. 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 Respondent pursuant to this Consent Order have not successfully corrected all violations, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate violations.
16. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondent of other obligations under applicable federal, state and local law.
17. 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 Respondent pursuant to this Consent Order will result in compliance.
18. 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.
19. Notice to Commissioner of changes. Within 15 days of the date Respondent becomes 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, Respondent shall submit the correct or omitted information to the Commissioner.

20. Notification of noncompliance. In the event that Respondent becomes aware that he 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, Respondent 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, Respondent 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 Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent 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.
21. 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

Respondent consents 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 Respondent to the terms and conditions of the Consent Order.

Scott Person
Scott Person

12-2-19
Date

Issued as a final Consent Order of the Commissioner of the Department of Energy and Environmental Protection on 12-16, 2019.

Katherine Dykes
Katherine Dykes
Commissioner

12/16/19
Date

Enclosure

CONSENT ORDER NO. COEC201903

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. COEC201903 to the following, by placing it in the U.S. mail: 9414 8149 0158 5922 0914 42

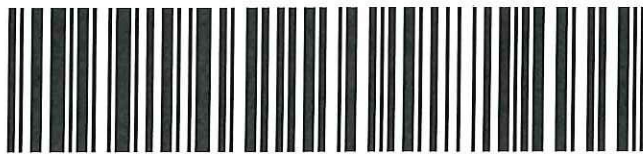
Sheila Hoefle

DEEP

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Scott Person

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