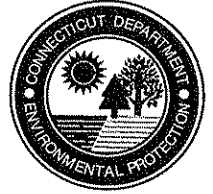


STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OF CONNECTICUT:

Date of Issuance: April 7, 2011

V.

SIXTY FOUR AVONWOOD ROAD ASSOCIATES, LLC:

CONSENT ORDER

- A. With the agreement of Sixty Four Avonwood Road Associates, LLC ("Respondent"), the Commissioner of Environmental Protection ("the Commissioner") finds:
1. Respondent is the owner of property located at 64 Avonwood Road in Avon, Connecticut (aka Avon Mill Apartments "the site"), more fully described in a deed which is recorded at page 232 of volume 539 of the Avon land records/as Lot #1220064, Block RU2A on map 044 in the Avon Tax Assessor's office.
 2. The site consists of three apartment buildings and one pool house. Each apartment building has ninety-three bedrooms. Domestic sewage generated from the apartment buildings is disposed on-site by three subsurface sewage treatment and disposal systems that discharge to the groundwaters in the watershed of the Farmington River.
 3. On February 25, 2010 an inspection of the site was conducted by the Farmington Valley Health Department. A surface failure was observed in front of the one of the apartment buildings.
 4. On March 23, 2010, Notice of Violation No. WR SA 10 001 was issued to Sixty-Four Avonwood Road Associates, LLC for discharging wastewater to the waters of the state without a permit, failure to properly operate and maintain the subsurface sewage disposal systems, and failure to maintain practices, procedures, and facilities designed to prevent, minimize, and control spills, leaks, or unplanned releases from the subsurface sewage disposal systems. On March 26, 2010, Respondent's consultant, Kevin Clark--Clark Engineering, submitted a written response to such Notice of Violation indicating that the Respondent would undertake several actions including: 1) monitor and maintain wastewater levels in the failing septic system to prevent a surface failure, 2) inspect remaining systems and pump as needed to prevent surface failure, and 3) perform a feasibility study for connection to the municipal sanitary sewer.
 5. The cumulative design flow of domestic sewage discharging to the site exceeds 5,000 gallons per day. Such discharge requires a permit issued by the Commissioner pursuant to section 22a-430 of Connecticut General Statutes and the regulations adopted thereunder. The Respondent does not have a permit to discharge domestic sewage on this site.
 6. By virtue of the above, Respondent is maintaining a facility or condition which reasonably can be expected to create a source of pollution to the waters of the State and

(Printed on Recycled Paper)

79 Elm Street • Hartford, CT 06106-5127

www.ct.gov/dep

An Equal Opportunity Employer

has maintained a discharge to the waters of the state without obtaining a permit as required by Section 22a-430 of the Connecticut General Statutes.

B. With the agreement of Respondent, the Commissioner, acting under Sections 22a-6, 22a-424, 22a-425, 22a-427, 22a-430, and 22a-432 of the Connecticut General Statutes, orders Respondent as follows:

1. On or before thirty (30) days after the issuance date of this order, Respondent shall contract with a licensed septic cleaner to pump the septic tank as necessary to ensure that no surface discharge of sewage occurs.
2. On or before thirty (30) days after the issuance date of this Consent Order, Respondent shall retain one or more qualified consultants acceptable to the Commissioner to prepare the documents and implement or oversee the actions required by this consent order and shall, by that date, notify the Commissioner in writing of the identity of such consultants. Respondent shall retain one or more qualified consultants acceptable to the Commissioner until this consent order is fully complied with, and, within ten days after retaining any consultant other than one originally identified under this paragraph, Respondent shall notify the Commissioner in writing of the identity of such other consultant. The consultant(s) retained shall be a qualified professional engineer licensed to practice in Connecticut. Respondent shall submit to the Commissioner a description of a consultant's education, experience and training which is relevant to the work required by this consent order within ten days after a request for such a description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.
3. On or before sixty (60) days after the issuance date of this consent order, Respondent shall submit for the Commissioner's review and written approval a scope of study for a comprehensive evaluation of all subsurface sewage treatment and disposal systems on site and actions necessary to correct all such conditions and violations described in paragraph A of this order. Such evaluation shall include an analysis of extending municipal sewer service to serve the site. The scope of study shall include a substantive plan and schedule, for the Commissioner's review and written approval, for conducting the evaluation, reporting to the Commissioner on the results of such evaluation, recommending alternatives for corrective actions, including an evaluation of which alternatives are prudent and feasible, and implementing the preferred alternative.
4. If the evaluation carried out under an approved scope of study does not fully characterize the conditions, violations and corrective actions to the satisfaction of the Commissioner, additional investigation shall be performed in accordance with a supplemental plan and schedule approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted for the Commissioner's review and written approval on or before thirty (30) days after notice from the Commissioner that they are required.
5. Respondent shall perform the evaluation and other actions specified in the approved scope of study and in any approved supplemental plan(s) in accordance with the approved schedule(s) but in no event shall the initial evaluation be completed later than July 1, 2011.
6. Except as may be provided in the schedule approved by the Commissioner, on or before thirty (30) days after the approved date for completion of the evaluation, Respondent shall

submit for the Commissioner's review and written approval a comprehensive and thorough report which describes in detail: the evaluation performed; alternatives to remediate such violations and/or conditions, including but not limited to the extension of municipal sewer services, and any other alternative specified by the Commissioner; states in detail the most expeditious schedule for performing each alternative, and lists all permits and approvals required for each alternative, including but not limited to any permits required under sections 22a-32, 22a-42a, 22a-342, 22a-361, 22a-368 or 22a-430 of the Connecticut General Statutes; proposes a preferred alternative with supporting justification therefore; and proposes a detailed program and schedule to perform the preferred remedial actions, including but not limited to a schedule for applying for and obtaining all permits and approvals required for such remedial actions.

7. Unless another deadline is specified in writing by the Commissioner, on or before sixty (60) days after approval of the report described in the preceding paragraph, Respondent shall (1) submit for the Commissioner's review and written approval contract plans and specifications for the approved remedial actions, a revised list of all permits and approvals required for such actions, and a revised schedule for applying for and obtaining such permits and approvals, and (2) submit applications for all permits and approvals required under section 22a-430 of the Connecticut General Statutes for such actions. Respondent shall use best efforts to obtain all required permits and approvals.
8. Respondent shall perform the approved remedial actions in accordance with the approved schedule(s), but if such approved actions provide for connection to the municipal sanitary sewer, such sanitary sewer connection shall be completed in accordance with the approved schedule or by December 31, 2017, whichever is earlier. Within fifteen (15) days after completing such actions, Respondent shall certify to the Commissioner in writing that the actions have been completed as approved.
9. Respondent may request that the Commissioner approve, in writing, revisions to any document approved hereunder in order to make such document consistent with law or for any other appropriate reason.
10. 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 as approved and to the Commissioner's satisfaction.
11. Sampling and sample analyses. All sample analyses which are required by this consent order and all reporting of such sample analyses shall be conducted by a laboratory certified by the U.S. Environmental Protection Agency or the Connecticut Department of Public Health to conduct such analyses. All sampling and sample analyses performed under this order 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 40 CFR 136. Unless otherwise specified by the Commissioner in writing, the value of each parameter shall be reported to the maximum level of precision and accuracy specified in the applicable protocol, and if no such level is specified, to the maximum level of precision and accuracy possible.
12. 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 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.

13. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
14. 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.
15. 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 Respondent's 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."
16. Noncompliance. This consent order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this consent order may subject Respondent to an injunction and penalties.
17. False statements. Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
18. 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.

19. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
20. 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 or prevent or abate pollution.
21. 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.
22. 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.
23. Notification of noncompliance. In the event that Respondent becomes aware that it 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 hereunder, 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.
24. 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:

Ramona Goode, Sanitary Engineer
Department of Environmental Protection
Bureau of Materials Management and Compliance Assurance
Water Permitting and Enforcement Division
79 Elm Street
Hartford, Connecticut 06106-5127

Respondent consents to the issuance of this consent order without further notice.

"The undersigned certifies that he/she is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order.

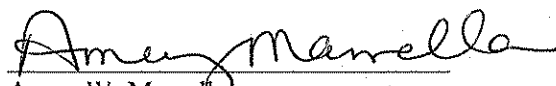
Sixty-Four Avonwood Road Associates, LLC

BY:


David Lattizori
Sixty Four Avonwood Road Associates, LLC

3-7-2011
Date

Issued as a final order of the Commissioner of Environmental Protection.


Amey W. Marrella

Deputy Commissioner *AM*

4/6/11
Date

ORDER NO. CO WR SS 11 001
DEP/WPC NO. 004-078
TOWN OF AVON
LAND RECORDS