



STATE OF CONNECTICUT :

V. :

SUNWOOD DEVELOPMENT CORPORATION:

CONSENT ORDER

A. With the agreement of the Sunwood Development Corporation ("Respondent"), the Commissioner of Energy and Environmental Protection ("the Commissioner") finds:

1. Respondent which is or has been engaged in construction of the 'Jablonski Subdivision' at 153 Higby Road in Middletown, Connecticut ("the site").
2. On March 27, 2014, staff inspected the site and issued Notice of Violation F NOV WRSW14201 for the following violations:
 - a. failed to register for the General permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities.
 - b. failed to install and maintain adequate erosion and sediment controls and site stabilization practices described in the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control ("the guidelines") as required by Stormwater General Permit Section 5(b)(1)(A) and in Sections 5(b)(5) and 5(b)(2) of the Stormwater General Permit
3. On May 9, 2014 the Respondent registered for the General Permit for the Discharge of Stormwater and Dewatering Wastewaters Associated with Construction Activities ("Stormwater General Permit"), issued August 21, 2013, effective October 1, 2013, for the discharges from the construction activity described above.
4. On June 17, 2015, staff inspected the site and observed the following violations:
 - a. failed to install and maintain adequate erosion and sediment controls and site stabilization practices described in the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control ("the guidelines") as required by Stormwater General Permit Section 5(b)(1)(A) and in Sections 5(b)(5) and 5(b)(2) of the Stormwater General Permit.
 - b. failed to perform and document inspections as required by Section 5(b)(4) of the Stormwater General Permit.

5. By virtue of the above, Respondent has polluted the waters of the State, has created or is maintaining a condition which reasonably can be expected to continue as a source of pollution to the waters of the State and has violated a permit issued under Section 22a-430b of the Connecticut General Statutes.
- B. With the agreement of Respondent, the Commissioner, acting under Sections 22a-6, 22a-32, 22a-424, 22a-425, 22a-430, 22a-432, and 22a-438 of the Connecticut General Statutes, orders Respondent as follows:
1. Consultant On or before seven (7) days from the 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 to prepare the Stormwater Pollution Control Plan shall be a licensed Connecticut Professional Engineer acceptable to the Commissioner. The consultant(s) retained to assess wetlands impacts shall be a certified soil scientist or a wetland biologist acceptable to the Commissioner. 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.
 2. Stormwater Pollution Control Plan On or before forty-five (45) days after the date of issuance of this consent order, Respondent shall submit to the Commissioner a written certification (using the SWPCP certification form attached in Appendix A of this consent order) that Respondent has fully implemented a complete SWPCP in accordance with Section 5(b) of the Stormwater General Permit and that such plan is current and a copy is available on site.
 3. Erosion and Sediment Controls Measures On or before thirty (30) days after the date of issuance of this consent order, Respondent shall submit a written certification (using the E&S certification form attached in Appendix A of this consent order) to the Commissioner that Respondent has installed and is maintaining all controls and measures required under the SWPCP and the General Permit, including but not limited to: erosion and sedimentation controls and stabilization practices required under Section 5(b)(2)(C) of the Stormwater General Permit.
 4. Inspections Respondent shall immediately perform inspections that comply with all requirements of Section 5(b)(4) of the Stormwater General Permit. Respondent shall immediately ensure that such inspections are performed by personnel qualified in erosion and sedimentation control measures and with the authority to correct problems and make adjustments as necessary. For each such inspection,

Respondent shall maintain on-site a report that complies with all requirements of general permit Section 5(b)(4)(B)(iii) including: a summary of the scope of the inspection, name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPCP.

5. Post-Construction Stormwater Management On or before sixty (60) days after the date of issuance of this consent order, Respondent shall submit to the Commissioner a written certification (using the post-construction stormwater treatment certification form attached in Appendix A of this consent order) that Respondent has designed a system for post-construction stormwater management measures which will remove suspended solids from stormwater. The system shall provide treatment measures that adhere to both the Stormwater General Permit and the Connecticut Stormwater Quality Manual for the removal of total sediment load from the post-construction stormwater discharge. The system will be installed during the construction process to control pollutants in stormwater discharges that will occur after construction operations have been completed. Unless otherwise specifically provided by the commissioner in writing, structural measures shall be placed on upland soils.
6. Progress reports. On or before the last day of each month following the issuance of this consent order, and continuing until all actions required by this consent order have been completed as approved and to the satisfaction of the Commissioner, Respondent shall submit a progress report to the Commissioner that describes the actions which Respondent has taken to date to comply with this consent order and includes results of all weekly erosion and sedimentation control inspections required under this consent order.
7. Full compliance. Respondent shall not be considered in full compliance with this consent order until the discharge of pollutants to waters of the state has ceased, and all other actions required by this consent order have been completed as approved and to the satisfaction of the Commissioner.
8. Civil Penalty. On or before fourteen days after issuance of this consent order, Respondent shall pay a civil penalty of \$4600.00 for the past violations, which are specified in Paragraphs A.2 and A.4. of this consent order.
9. Payment of penalties. Payment of penalties under this consent order 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 "Treasurer, State of Connecticut." The check shall state on its face, "Materials Management and Compliance Assurance civil penalty – Water Permitting, & Enforcement, Consent Order No. WRSWCO16002".
10. 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 the 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.

11. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
12. 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 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 on or before the next day which is not a Saturday, Sunday, or a Connecticut or federal holiday.
13. 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 a responsible corporate or municipal officer of the appropriate Respondent(s) or a duly authorized representative of such officer, as those terms are defined in section 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies and by the individual(s) responsible for actually preparing such document, each of whom 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 is as a criminal offense under section 53a-157b of the Connecticut General Statutes and any other applicable law."
14. 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.

Sunwood Development Corporation
Consent Order #WRSWC016002

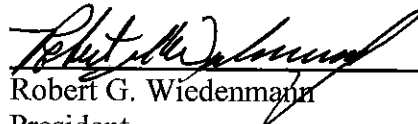
15. False statements. Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under Section 53a-157b of the Connecticut General Statutes or any other applicable law.
16. Notice of transfer; liability of Respondent and others. Until Respondent has fully complied with this consent order, Respondent shall notify the Commissioner in writing no later than fifteen 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.
17. Commissioner's powers. Except as provided hereinabove with respect to payment of penalties, 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, prevent or abate pollution, 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, fully characterized the extent and degree of pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate violations or pollution.
18. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
19. 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.
20. Access to site. Any representative of the Department of Environmental Protection may enter the site without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.
21. No effect on rights of other persons. This consent order neither creates nor affects any rights of persons who or municipalities which are not parties to this consent order.
22. Notice to Commissioner of changes. Within fifteen (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 Commissioner's review and written approval, 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.

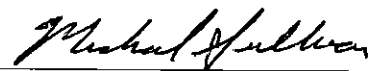
24. Submission of documents. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in writing by the Commissioner, be directed to:

Neal Williams
Department of Energy and Environmental Protection
Bureau of Materials Management & Compliance Assurance
Water Permitting & 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. A corporate resolution granting such authorization is attached hereto as Appendix B.

BY: 
Robert G. Wiedenmann
President
Sunwood Development Corporation
Date: 10-14-16

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


Michael Sullivan, Deputy Commissioner 10/21/16

ORDER NO. WRSWCO16002

LIMIT
DEP/WPC NO.
DISCHARGE CODE
TOWN OF MIDDLETOWN
LAND RECORDS