

STATE OF CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OF CONNECTICUT:

V.

THOMAS J. PREATO, SR.

Date of Issuance August 19, 2010

CONSENT ORDER

- A. With the agreement of Thomas J. Preato, Sr. ("Respondent"), the Commissioner of Environmental Protection ("the Commissioner") finds:
1. Respondent is the sole proprietor of the Hemlocks Mobile Home Court property located at 1847 Norfolk Road, Torrington, Connecticut ("the site") and provided the Department of Environmental Protection with a resolution of Sole Proprietorship dated April 20, 2010. The site is a mobile home park containing thirty-one (31) two-bedroom units. Domestic sewage from the buildings is discharged to several subsurface sewage disposal systems of unknown sizes, which cumulatively discharge in excess of 5,000 gallons per day domestic sewage.
 2. Respondent does not have a permit from the Commissioner under Section 22a-430 of the Connecticut General Statutes for the discharges to the waters of the State described above.
 3. In January 2006, Department of Environmental Protection staff became aware that one of the systems serving ten (10) of the mobile homes was malfunctioning. An initial site investigation was performed on January 25, 2006 to evaluate an alternate location for a new subsurface sewage disposal system. The initial proposed alternate location proved to be unsuitable. A new location was tested on a neighboring property on May 26, 2007, which also proved to be unsuitable. Additional site testing was performed on May 12, 2009 by a different engineering firm at a new location on the Hemlocks Mobile Home Court property. Since January 2006, the subsurface sewage disposal system was pumped regularly to prevent a surface failure from occurring.
 4. The Respondent proposes to upgrade the existing malfunctioning subsurface sewage disposal systems. The Respondent has provided the Department of Environmental Protection with plans and specifications prepared by Rotondo Engineering Associates, Inc. dated September 4, 2009 and revised March 9, 2010 ("the plans and specifications") for a replacement system consisting of septic tanks and a pump chamber followed by a leaching field ("the replacement system"). The plans and specifications are attached to and incorporated into this order and as such are made a part of this order.
- B. With the agreement of the Respondent and the Commissioner, pursuant to sections 22a-6, 22a-424, 22a-430, and 22a-432 of the Connecticut General Statutes, orders Respondent as follows:
1. Authorization. This Consent Order hereby authorizes Respondent to discharge 7,000 gallons per day of domestic sewage at the site from all the systems serving the 31 manufactured homes on site, provided Respondent maintains compliance with the terms and conditions identified in this consent order, with all provisions of local, state and federal laws and regulations that govern Respondent's operations. This authorization is expressly limited by and conditioned on Respondent's timely compliance as described in this paragraph, which compliance the Commissioner deems necessary to assure protection of health, safety and the environment. This authorization may be revoked in writing by the Commissioner at any time, upon violation of any condition of this consent order. Nothing in this consent order, including this paragraph, constitutes a permit. Additionally this authorization will be predicated on the following conditions:
 - a. In order to abate a potential source of pollution to the waters of the state, the Respondent shall replace the existing malfunctioning discharge system with the replacement system capable of

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treating a maximum flow of 2,250 gallons per day of domestic sewage from the units nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), twenty nine (29), thirty (30) and thirty one (31) on the property located at 1847 Norfolk Road, Torrington, Connecticut. The replacement system shall be installed in accordance with the plans and specifications referred to in paragraph A.4.

- b. Respondent shall enter an agreement with Torrington Water Pollution Control Authority (WPCA) that will enable the WPCA to manage the community system and ensure that the Respondent properly operates and maintains the system. Section 7-246-F(b) of the Connecticut General Statutes requires a municipality to manage or ensure the effective management of any community sewerage system not owned by the municipality. This statutory provision was enacted by the legislature as a result of the "Report to the Joint Standing Committee on the Environment on the Establishment and Administration of a Municipal and Town Sewer Avoidance Program". Section 7-246-F(b) is intended to allow a Water Pollution Control Authority to either manage a community system by contract or to examine the financial and management structure of any private entity which will own such a system.
- c. No less than ten (10) days before starting construction of the replacement system, the Respondent shall notify in writing the Commissioner and the Director of Health for the Torrington Area Health District that construction is expected to commence.
- d. The Respondent shall retain a Professional Engineer with a current license to practice in the State of Connecticut ("the engineer") and shall ensure that such engineer performs the following actions:
 - i. Offset and grade stake the replacement system prior to the start of construction;
 - ii. Exercise general supervision over the installation of the replacement system to ensure that the installation conforms to the plans and specifications; and
 - iii. Prepare record drawings of the installed replacement system, ("as-built drawings") showing all component locations and elevations. These drawings shall be sufficient to verify that the replacement system was installed in conformance with the plans and specifications. On or before thirty (30) days after the installation of the replacement system has been completed, a copy of the as-built drawings shall be submitted to the Assistant Director, Bureau of Materials Management and Compliance Assurance, Water Permitting and Enforcement Division, the Director of Health for the Torrington Area Health District and Torrington Water Pollution Control Authority.
- e. Respondent shall ensure that the replacement system is installed by a subsurface sewage disposal system installer with a valid effective license issued pursuant to Section 20-341(f) of the Connecticut General Statutes.
- f. Upon written verification by the Commissioner or an agent of the Commissioner, that the record drawings of the installed replacement system show that the replacement system was installed in conformance with the plans and specifications approved herein, a discharge of up to 2,250 gallons per day of domestic sewage shall be authorized from the units nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), twenty nine (29), thirty (30) and thirty one (31) on the property located at 1847 Norfolk Road, Torrington, Connecticut.
- g. Discharges of domestic sewage at the site shall be authorized in accordance with the following conditions:
 - i. The use of sewage system additives, as defined in section 22a-460(g) of the CGS, is prohibited unless such additive is registered with the Commissioner in accordance with section 22a-462-3 of the RCSA. The Commissioner in no way certifies the safety or effectiveness of any registered additive.

- ii. Oils, greases, industrial or commercial wastes, toxic chemicals, wastes from water treatment systems, or other substances, that will adversely affect the operation of the subsurface sewage disposal system, or, which may pollute ground water, shall not be discharged to the subsurface sewage treatment and disposal system.
 - iii. The septic tank effluent filters shall be cleaned as necessary or at minimum each time the septic tank is pumped.
 - iv. The septic tanks shall be pumped every year.
 - v. Pump chamber shall be pumped every three years.
 - vi. Copies of the pumping and maintenance reports shall be submitted concurrently to Department of Environmental Protection, Bureau of Materials Management and Compliance Assurance, Water Permitting and Enforcement Division, Torrington Area Health District and Torrington Water Pollution Control Authority.
 - vii. Emergency generator shall be tested quarterly to ensure that it is functional.
 - h. On or before ninety (90) 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 further required by this consent order and shall, by that date, notify the Commissioner in writing of the identity of such consultants.
 - i. On or before sixty (60) days after retaining one or more qualified consultants acceptable to the Commissioner, the Respondent shall investigate and document the subsurface sewage disposal systems serving the existing restaurant on the property, design a collection system to serve units twenty one (21) and twenty two (22) and connect them to the existing restaurant's subsurface sewage disposal systems that is not in use at this time and propose a demolition plan for the restaurant, creating a reserve area for future repairs.
 - j. On or before six (6) months after the issuance date of this consent order, Respondent shall submit for the Commissioner's review and written approval a report that details an initial investigation of the site, identifying all subsurface sewage disposal systems on the site, indicating whether any subsurface sewage disposal systems experience malfunctions and whether such subsurface sewage disposal systems are appropriate to treat the discharge, and proposing a schedule to complete remedial actions to ensure no further surface discharges of sewage will occur.
2. 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 satisfaction of the Commissioner.
 3. Approvals. Respondent 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 the Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and the 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 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.
 4. Definitions. As used in this order, "Commissioner" means the Commissioner or an agent of the Commissioner.

5. 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 order, the word "day" as used in this 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.
6. 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 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 individuals responsible for actually preparing such document, and Respondent or Respondent's chief executive officer 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 is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."
7. Access to Site. Any representative of the Department of Environmental Protection may enter the property that is subject to this consent order without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.
8. 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.
9. False statements. Any false statement in any information submitted pursuant to this consent order is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
10. 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 residence, 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.
11. 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, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present and 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 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.
12. Respondent obligation under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
13. 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.

14. 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.
15. Notice to Commissioner of changes. Within fifteen 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.
16. 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, 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. Respondent shall submit in writing 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.
17. Submission of documents. Any document required to be submitted, or notice required to be provided, to the Commissioner under this consent order shall, unless otherwise specified in writing by the Commissioner, be directed to:

Kim E. Hudak, P.E.
Assistant Director
Department of Environmental Protection
Bureau of Materials Management and Compliance Assurance
Water Permitting and Enforcement Division
79 Elm Street
Hartford, CT 06106-5127
(860) 424-3021

Respondent consents to the issuance of this consent order without further notice. The undersigned certifies that he is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order.

Respondent

BY:

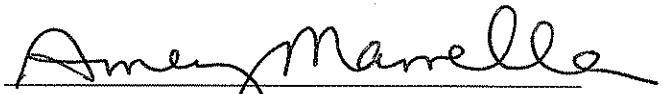


Thomas J. Preato, Sr.
Sole Proprietor
Hemlocks Mobile Home Court
1895 Norfolk Road
Torrington, CT 06790

8-2-2010
Date

Issued as a Final Order of the Commissioner of the Department of Environmental Protection.

8/18/10
Date



Amey W. Martella
Commissioner

ORDER NO.: WC 5671
DEP/WPC NO.: 143-215
TOWN OF TORRINGTON