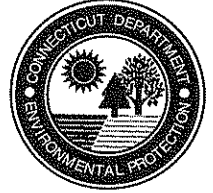


STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OF CONNECTICUT

Date of Issuance September 14, 2010

V.

RIVER'S END MARINA, INC.

CONSENT ORDER

A. With the agreement of River's End Marina, Inc. ("Respondent"), the Commissioner of Environmental Protection ("the Commissioner") finds:

1. Respondent is the owner or operator of a marina, yacht club, boatyard, boat repair and maintenance facility, or other facility located at 50 Victory Street in Shelton, Connecticut ("the site").
2. On October 27, 2009, staff of the Department's Bureau of Materials Management and Compliance Assurance conducted an inspection of the site.

Vessel Pressure Washing

3. Since May 2006, the Connecticut Department of Environmental Protection ("Department") and the Connecticut Marine Trades Association ("CMTA") have been working cooperatively to provide education, outreach and technical assistance to facility owners and operators that are potentially engaging in pressure washing of vessel bottoms to ensure that the wastewaters generated from these activities are managed in an environmentally sound manner in compliance with state and federal environmental laws.
4. Given the difficulties in moving an industry from long-standing practices to regulatory compliance, along with the need for the industry to explore and implement appropriate treatment and disposal measures, the Commissioner advised the regulated community that in general, until September 30, 2009, the Department would exercise enforcement discretion and not pursue enforcement actions for unauthorized discharges associated with pressure washing of vessel bottoms.
5. The Commissioner agreed to further extend the September 30, 2009 deadline described in paragraph A.4 above, until no later than December 31, 2010. This extension, however, is limited to only those marinas, yacht clubs, boatyards, boat repair and maintenance facilities and other facilities that are covered by and are in compliance with the Consent Order Regarding Vessel Pressure Washing Wastewater ("Vessel Pressure Washing CO"). To obtain coverage under the Vessel Pressure Washing CO, facilities were required to sign onto the CO by September 15, 2009. Notification of the opportunity to obtain such extension by signing onto the Vessel Pressure Washing CO was provided to CMTA, members of CMTA, and marinas known to the Department through notices sent on July 1, 2009 and August 28, 2009 and through a Department website posting published on July 1, 2009.

6. The Respondent did not sign onto the Consent Order identified in paragraph A.5 and therefore has not established a schedule to achieve compliance with applicable laws and regulations and is subject to the Department's full enforcement authority.
7. During the site inspection referenced in paragraph A.2 above, Department staff observed the evidence of wastewaters discharged from pressure washing the bottom of vessels to the waters of the state.
8. The discharge of wastewaters from pressure washing the bottom of vessels to the waters of the state requires a permit from the Commissioner pursuant to Section 22a-430 or 22a-430b of the Connecticut General Statutes ("CGS"), and the Commissioner has not issued such permit.

Stormwater General Permit

9. Under the authority of CGS Section 22a-430b, the Commissioner issued a General Permit for the Discharge of Stormwater Associated with Industrial Activity ("Stormwater General Permit") on October 1, 2002, modified July 15, 2003, reissued October 1, 2007, reissued October 2, 2008, and reissued April 14, 2009.
 10. Based on the inspection referenced in paragraph A.2 above, it appears that the Respondent failed to comply with the Stormwater General Permit. Respondent has:
 - a. Discharged stormwater associated with industrial operations without registration as required by Section 4 of the Stormwater General Permit;
 - b. Failed to develop and implement a Stormwater Pollution Prevention Plan ("SWPPP") as required by Section 5(b) of the Stormwater General Permit; and
 - c. Failed to monitor stormwater as required by Section 5(c) of the Stormwater General Permit.
 11. On October 27, 2009, the Department issued Notice of Violation ("NOV") No. WR SW 09 031 DMS to Respondent for discharging wastewater and stormwater without a permit in violation of CGS Sections 22a-430 and 22a-430b.
 12. By virtue of the above, Respondent, has created or is maintaining a facility or condition which reasonably can be expected to create a source of pollution to the waters of the State, and has maintained a discharge without a permit in violation of CGS Sections 22a-430 or 22a-430b.
- B. With the agreement of Respondent, the Commissioner, acting under CGS Sections §22a-6, §22a-424, §22a-425, §22a-430, §22a-430b, and §22a-438, orders Respondent as follows:

Vessel Pressure Washing

1. Respondent shall immediately cease all pressure washing of vessel bottom discharges to the waters of the state for which Respondent does not have a permit from the Commissioner issued under CGS Section 22a-430 or 22a-430b until Respondent receives such permit. Further, any measures for the containment, collection, treatment, storage,

discharge and/or hauling of vessel pressure washing wastewaters must be done in accordance with CGS Sections 22a-430, 22a-430b, 22a-454 and other applicable requirements. Examples of systems which may comply with these statutory provisions include but are not limited to:

- a. collection and physical/chemical treatment of the wastewater followed by a piped discharge to a municipal sewage treatment plant in compliance with the terms of the General Permit for Miscellaneous Discharges of Sewer Compatible Wastewater ("MISC General Permit") and regulations of the municipal water pollution control authority;
- b. collection and physical/chemical treatment of the wastewater followed by transportation by the marina operator, or by a contract hauler licensed under CGS Section 22a-454 for discharge to a municipal sewage treatment plant in compliance with the terms of the MISC General Permit and regulations of the municipal water pollution control authority;
- c. collection and physical/chemical/thermal treatment of the wastewater followed by removal and transportation of any resulting solid waste to a permitted waste disposal facility; or
- d. collection of the wastewater in a tank and followed by transportation by a contract hauler licensed under CGS Section 22a-454 for discharge to a licensed industrial wastewater treatment facility or treatment, storage, and disposal facility.

Stormwater General Permit

2. On or before thirty (30) days after the date of issuance 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 paragraphs B.3 and B.4 (below) of this consent order and shall, by that date, notify the Commissioner in writing of the identity of such consultant(s). 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 the one(s) originally identified under this paragraph, Respondent shall notify the Commissioner in writing of the identity of such other consultant. The consultant(s) retained to implement and oversee the actions required by the general permit and this consent order shall be a qualified professional engineer(s) licensed to practice in Connecticut with qualifications 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 (10) days after a request for such a description is made by the Commissioner. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.
3. On or before sixty (60) days after the date of issuance of this consent order, Respondent shall complete the following: a) submit the registration form for coverage under the Stormwater General Permit to the Commissioner and b) prepare and implement a complete SWPPP in accordance with Section 5 of the Stormwater General Permit; and c) submit to the Commissioner the signed certification, found in Attachment A of this consent order.

4. On or before June 30, 2010 or one hundred twenty (120) days after the date of issuance of this consent order, whichever is later, Respondent shall: a) review its SWPPP and perform a Comprehensive Site Compliance Evaluation ("CSCE") in accordance with Section 5 of the Stormwater General Permit, using the form included as Attachment B to this consent order ("form") to assist in performing such review and evaluation; b) retain the completed form onsite; and c) submit to the Commissioner the signed certification found in Attachment C.
5. Penalty. On or before fourteen (14) days after issuance of this consent order, Respondent shall pay a civil penalty of \$13,800 as sought by the Commissioner for past violations described in paragraphs A.7.,A.8.,and A.10-A.12. of this consent order.
6. Payment of penalties. Payment of penalties under this consent order shall be mailed or personally delivered to the Department of 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 Bureau civil penalty – Water Permitting, & Enforcement, Consent Order No. WC-5684 ."
7. 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.
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 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. 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.
10. Dates. 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 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 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."

12. 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.
13. 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.
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, 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 or degree of any 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.
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 or prevent or abate pollution.

18. 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.
19. 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.
20. 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.
21. 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.
22. 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:

Donna M. Seresin
Department of Environmental Protection
Bureau of Materials Management & 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. A corporate resolution granting such authorization is attached hereto as Attachment D.

(company name)

BY: Bernard Shaw
Name:
Title: PRES.
9-1-10
Date

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

Amey Marrella
Amey W. Marrella
Commissioner
9/13/10
Date

ORDER NO. WC 5684
FACILITY ID NO.
TOWN OF SHELTON LAND RECORDS