



STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OF CONNECTICUT :

Date of Issuance August 20, 2010

V.

OLD FARMS CONDOMINIUM ASSOCIATION, INC.:

CONSENT ORDER

A. With the agreement of Old Farms Condominium Association, Inc. ("Respondent"), the Commissioner of Environmental Protection ("the Commissioner") finds:

1. Respondent is an association which is the owner of property located at Old Farms Lane in New Milford, Connecticut ("the site"). The site is a condominium complex containing ninety-five (95) two-bedroom units located in thirteen (13) buildings. Domestic sewage from each building is discharged to either one or two on-site wastewater renovation systems (OWRS), which cumulatively discharge in excess of 5,000 gallons per day of domestic sewage.
2. Respondent does not have a permit from the Commissioner issued under Connecticut General Statutes (CGS) § 22a-430 for the discharges to the waters of the State described above.
3. In March of 2001 Department of Environmental Protection (DEP) staff were informed that the OWRS which serves Building No.12 was malfunctioning. On May 8, 2001 DEP staff confirmed that the OWRS was malfunctioning. (Subsequent to the system failure, the OWRS that serves building 12 has been pumped regularly to avoid a surface failure).
4. In the intervening years Respondent has, with substantial guidance from DEP staff, pursued a number of alternatives to remedy the failed system. For a variety of reasons, environmental, legal and financial, the various proposals have been rejected.
5. The Respondent now proposes to replace the existing OWRS serving Building No. 12. The Respondent has provided the Department of Environmental Protection with plans and specifications prepared by CCA Engineering, LLC, dated October 1, 2008 and revised June 15, 2010 ("the plans and specifications") for a replacement system consisting a septic tank followed by a pump station, aeration, and 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 Respondent, the Commissioner, acting under CGS §§22a-6, 22a-424, 22a-430, 22a-432, orders Respondent as follows:

1. Authorization. This Consent Order hereby authorizes Respondent to discharge 28,500 gallons per day of domestic sewage at the site from the systems serving Buildings No. 1, No. 2, No. 3, No. 4, No. 5, No. 6, No. 7, No. 8, No. 9, No. 10, No. 11, No. 12, and No. 13 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 discharge system with the replacement system capable of treating a maximum flow of 1,800 gallons per day of domestic sewage from the residences located in Building No. 12 of Old Farms Condominium Association property located at Old Farms Lane in New Milford, Connecticut. The replacement system shall be installed in accordance with the plans and specifications referred to in paragraph A.6.
- b. 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 New Milford Health Department that construction is expected to commence.
- c. 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 and the Director of Health for the New Milford Health Department.
- d. 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.
- e. 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 1,800 gallons per day of domestic sewage shall be authorized from the residences located in Building No. 12 of Old Farms Condominium Association property located at Old Farms Lane in New Milford, Connecticut.
- f. 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 comprehensive

water conservation plan, including an implementation scheduling, for all buildings within the condominium complex.

- g. Discharges of domestic sewage at the site from the systems serving Buildings No. 1, No. 2, No. 3, No. 4, No. 5, No. 6, No. 7, No. 8, No. 9, No. 10, No. 11, No. 12, and No. 13 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 treatment and disposal system, or, which may pollute ground water, shall not be discharged to the subsurface sewage treatment and disposal system.
  - iii. The septic tanks shall be pumped every three years.
  - iv. The septic tank effluent filters shall be cleaned each time the septic tanks are pumped and as necessary.
- 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 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 investigation of the site, identifying all OWRs on the site, indicating whether any OWRs experience malfunctions and whether such OWRs 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 Commissioner's satisfaction.

3. 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.

4. 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.
5. 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.
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, 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."
7. 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.

8. 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.
9. 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.
10. 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.
11. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
12. 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.
13. 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.
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 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.

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 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.
  
17. 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:

Kim E. Hudak, P.E.  
Assistant Director  
Department of Environmental Protection  
Bureau of Material Management and Compliance Assurance  
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.

RESPONDENT

BY: Thomas Sprick  
Thomas Sprick  
President, Old Farms Condominium Association, Inc.

Aug. 3, 2010  
Date

Issued as a final order of the Commissioner of the Department of Environmental Protection  
on August 19, 2010.

Amey W. Marrella  
Amey W. Marrella  
Commissioner

ORDER NO. WC 5690  
DEP/WPC 096-172  
TOWN OF NEW MILFORD  
LAND RECORDS