

STATE OF CONNECTICUT

DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OF CONNECTICUT:

V. :

CHARLES E. AND JULIA B. STAPLETON:

LATIMER POINT CONDOMINIUM ASSOCIATION, INC.:

CONSENT ORDER

Date of Issuance April 26, 2011

Order No.: WC-5700

A. With the agreement of Charles E. and Julia B. Stapleton ("Respondents Charles and Julia Stapleton") and Latimer Point Condominium Association, Inc. ("Respondent Latimer Point"), the Commissioner of Environmental Protection ("the Commissioner") finds:

1. Respondents Charles and Julia Stapleton are the owners of the seasonal residence located at 20 North Shore Way in Stonington, Connecticut ("the residence"). The residence is located on property which is part of the Latimer Point Condominium Association, Inc.
2. Respondent Latimer Point is the owner of the property which includes a mixture of seasonal and permanent residences on leased land ("the site"). Domestic sewage from the residences is discharged to individual subsurface sewage disposal systems and comprises a total discharge in excess of 5,000 gallons per day to the waters of the state. The site 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. Domestic sewage from the residence is presently discharged to an inadequately sized existing subsurface sewage disposal system located on the site.
4. The Respondents Charles and Julia Stapleton propose to upgrade the existing subsurface sewage disposal system ("system") serving the residence. The Respondents Charles and Julia Stapleton have submitted to the Department of Environmental Protection plans and specifications prepared by Vaiciulis Engineering, L.L.C. dated November 2010, and revised January 19, 2011 ("the plans and specifications") for a replacement system consisting of a building sewer and a septic tank followed by a leaching field ("the replacement system"). The plans and specifications are incorporated into this consent order as Attachment 1. The Commissioner hereby deems such plans and specifications to be acceptable ("approved plans and specifications").
5. By virtue of the above, the Respondents Charles and Julia Stapleton and Respondent Latimer Point are maintaining 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 Respondents Charles and Julia Stapleton and Respondent Latimer Point, the Commissioner, pursuant to sections 22a-6, 22a-424, 22a-430, and 22a-432 of the Connecticut General Statutes, orders Respondents Charles and Julia Stapleton and Respondent Latimer Point as follows:

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1. In order to abate a potential source of pollution to the waters of the state, the Respondents Charles and Julia Stapleton shall replace the existing discharge system with the replacement system capable of treating a maximum flow of 600 gallons per day of domestic sewage from the residence located at 20 North Shore Way, Stonington, Connecticut. The replacement system shall be installed in accordance with the approved plans and specifications referred to in paragraph A.4 above and in accordance with the following requirements:
 - a. No less than ten (10) days before starting construction of the replacement system, the Respondents Charles and Julia Stapleton shall notify in writing the Commissioner and the Director of Health for the Stonington Health Department that construction is expected to commence.
 - b. To the extent that installation of the replacement system requires the approval or authorization from the Respondent Latimer Point, the Respondents Charles and Julia Stapleton shall obtain such approval or authorization before undertaking installation of the replacement system. The Respondent Latimer Point shall use best efforts to grant such approval or authorization in response to Respondents Charles and Julia Stapleton's reasonable request.
 - c. The Respondents Charles and Julia Stapleton 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 approved 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 Stonington Health Department.
 - d. Respondents Charles and Julia Stapleton 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.
2. 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 approved plans and specifications, a discharge of up to 600 gallons per day of domestic sewage shall be authorized from the residence located at 20 North Shore Way, Stonington, Connecticut in accordance with the following conditions:
 - a. 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.

- b. 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.
 - c. The septic tank effluent filter shall be cleaned as necessary.
 - d. The septic tank shall be pumped every three years.
3. **Full compliance.** Respondents 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.
4. **Approvals.** Respondents 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 a Respondent(s) that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and such Respondent(s) 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.
5. **Definitions.** As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
6. **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.
7. **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 each Respondent and if such 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.”

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 Respondents to an injunction and penalties.
9. 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.
10. Notice of transfer; liability of Respondents. Until Respondents have fully complied with this consent order, Respondents 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. Respondents' obligations under this consent order shall not be affected by the passage of title to any property to any other person or municipality.
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, or future violations of law. If at any time the Commissioner determines that the actions taken by any 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 such Respondent to undertake further investigation or further action to prevent or abate violations or pollution.
12. Respondents' obligations under law. Nothing in this consent order shall relieve Respondents 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 Respondents pursuant to this consent order will result in compliance.
14. 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.
15. 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.
16. Notice to Commissioner of changes. Within 15 days of the date Respondents become 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, such Respondents shall submit the correct or omitted information to the Commissioner.

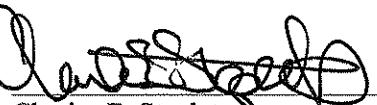
17. Notification of noncompliance. In the event that a Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this consent order or of any document required hereunder, such Respondent shall immediately notify by telephone the individual 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, the 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 the Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by a 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.
18. 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:

Antoanelia Daha, 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

Respondents consent to the issuance of this consent order without further notice.

Respondents Charles and Julia Stapleton:

BY:

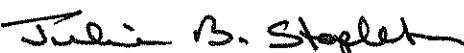


Charles E. Stapleton
20 North Shore Way
Latimer Point
Stonington, CT 06378

4/12/2011

Date

BY:



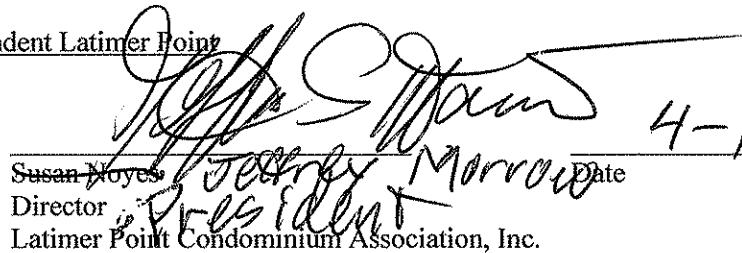
Julia B. Stapleton
20 North Shore Way
Latimer Point
Stonington, CT 06378

4/12/2011

Date

Respondent Latimer Point

BY:



Susan Noyes, Jeffrey Morrow
Director, Latimer Point Condominium Association, Inc.

4-12-2011

Date

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



for Daniel C. Esty
Commissioner

4/26/11

Date

ORDER NO. WC-5700
DEP/WPC NO. 137-137
TOWN OF STONINGTON