

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE AND INSPECTION

In Re: City of Cranston
Water North America Operating Services, LLC

File No.: AIR-10-01 Veolia
AAD No.: 10-006/ARE

CONSENT AGREEMENT

A. INTENT & PURPOSE

This Agreement is entered by and between the Rhode Island Department of Environmental Management (“RIDEM”) Office of Compliance & Inspection and the City of Cranston and Veolia Water North America Operating Services, LLC (the “Respondents”). This Agreement is entered in accordance with Section 42-17.1-2 *et seq.* of the Rhode Island General Laws (“R.I. Gen. Laws”) for the purpose of resolving the administrative enforcement action set forth in a Notice of Violation (“NOV”) issued to the Respondents by RIDEM on 9 June 2010.

B. STIPULATED FACTS

- (1) WHEREAS, the facility is located at 140 Pettaconsett Avenue in the city of Cranston, Rhode Island (the “Facility”).
- (2) WHEREAS, the City of Cranston owns the Facility and Veolia Water North America Operating Services, LLC operates the Facility.
- (3) WHEREAS, the Facility is a stationary source of air pollutants subject to RIDEM’s Air Pollution Control (“APC”) Regulations.
- (4) WHEREAS, on 9 June 2010, RIDEM issued a NOV to the Respondents alleging certain violations of APC Regulation No. 9.
- (5) WHEREAS, the Respondents requested an administrative hearing to contest the NOV.
- (6) WHEREAS, the signing of this Agreement is for settlement purposes only and does not constitute an admission or a denial by the Respondents that the law or regulations have been violated as alleged in the NOV.
- (7) WHEREAS, in lieu of proceeding to an administrative adjudicatory hearing on the NOV and to effect a timely and amicable resolution of the NOV, RIDEM and the Respondents hereby agree that it is in the best interest of the parties and in the public interest to resolve the issues raised in the NOV.
- (8) WHEREAS, RIDEM finds that this Agreement is a reasonable and fair settlement and adequately protects the public interest in accordance with RIDEM’s APC Regulations.

C. AGREEMENT

- (1) JURISDICTION – RIDEM has jurisdiction over the subject matter of this Agreement and has personal jurisdiction over the Respondents.
- (2) FORCE and EFFECT – This Agreement shall have the full force and effect of a final compliance order issued after a full hearing on the merits pursuant to the Administrative Procedures Act, R.I. Gen. Laws Section 42-35-1 et seq. from which no timely appeal was taken, and which is enforceable in Superior Court in accordance with R.I. Gen. Laws Section 42-17.1-2(21)(v).
- (3) APPLICATION – The provisions of this Agreement shall apply to and be binding upon RIDEM, the Respondents and their agents, servants, employees, successors, assigns and all persons, firms and corporations acting under, through and for the Respondents in the performance of work relating to or impacting the requirements of this Agreement.
- (4) CONDITIONS –
 - (a) The Respondents shall complete the following actions to comply with the Order section of the NOV:
 - (i) Within thirty (30) days of the date of execution of this Agreement, the Respondents shall submit a revised Annual Certification of Compliance for 2008 addressing the following:
 1. Change “compliance” to “noncompliance” for conditions I.C.1.f(1), I.C.6.e, I.D.1.f(1), and I.D.6.e;
 2. Leave the compliance/noncompliance boxes unchecked for conditions I.C.1.g and I.D.1.g and state “see comment” in the compliance/noncompliance box. Under the description box associated with conditions I.C.1.g and I.D.1.g, state “The Method 9 program was not fully implemented until January 2009. Compliance for the 10% cannot be verified”;
 3. Change the summary of deviation for conditions I.C.3.1 and I.D.3.1 to “reporting deficiencies”;
 4. Complete conditions I.C.4.i, I.C.4.j, I.D.4.i, I.D.4.j, and all of Section II; and
 5. Accurately label I.D.6.d and I.D.6.e as I.D.6.e and I.D.6.f.
 - (b) Penalty – The Respondents shall pay to RIDEM the sum of Five Thousand Dollars (\$ 5,000.00) in administrative penalties assessed as follows:
 - (i) Upon execution of this Agreement by the Respondents, the Respondents shall pay to RIDEM the sum of **Five Thousand Dollars (\$ 5,000.00)**.

(ii) Penalties that the Respondents agree to pay in this Agreement are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.

(iii) All penalty payments shall be in the form of a check payable to the ***R.I. General Treasurer – Water and Air Protection Account***. All payments shall be delivered to:

Chief, RIDEM Office of Compliance and Inspection
235 Promenade Street
Providence, RI 02908-5767

D. COMPLIANCE

- (1) EFFECT OF COMPLIANCE – Compliance with and fulfillment of this Agreement shall be deemed to resolve all issues raised in the NOV.
- (2) FAILURE TO COMPLY – In the event that the Respondents fail to comply with the items specified in Section C (4)(a) of the Agreement, the Respondents shall pay a stipulated penalty of One Thousand Dollars (\$1,000.00) per month for each and every month during which the noncompliance continues, except that RIDEM may, for good cause shown, defer or reduce such penalty. The payment of a penalty in accordance with this section shall not preclude RIDEM from seeking any other remedy (e.g., injunctive relief in Superior Court).
- (3) COMPLIANCE WITH OTHER APPLICABLE LAWS – Compliance with the terms of this Agreement does not relieve the Respondents of any obligation to comply with any other applicable laws or regulations administered by, through or for RIDEM or any other governmental entity.
- (4) ADDITIONAL ENFORCEMENT ACTIONS – Upon a determination by the Director that there is a threat to the public health or the environment, or upon discovery of any new information, RIDEM reserves the right to take additional enforcement actions as provided by law or regulation, including, but not limited to, the issuance of “Immediate Compliance Orders” as authorized by R.I. Gen. Laws Section 42-17.1-2(21). This Agreement shall not restrict any right to hearing or other right available by statute or regulation that the Respondents may have regarding any new enforcement action commenced by RIDEM after the execution of this Agreement.
- (5) FUTURE ACTIVITIES AND UNKNOWN CONDITIONS – This Agreement shall not operate to shield the Respondents from liability arising from future activities, as of the date of execution of this Agreement.
- (6) SCOPE OF THE AGREEMENT – The scope of the Agreement is only violations alleged in the NOV.
- (7) NOTICE AND COMMUNICATION – Communications regarding this Agreement shall be directed to:

Christopher John, Supervising Air Quality Specialist

RIDEM Office of Compliance and Inspection
235 Promenade Street
Providence, RI 02908-5767
(401) 222-1360 ext. 7023

(8) EFFECTIVE DATE – This Agreement shall be deemed entered as of the date of execution by all parties.

IN WITNESS WHEREOF, the undersigned consent to this Agreement in substance and in form.

For the City of Cranston

By: _____ (Print Name)

Dated: _____

For Veolia Water North America Operating Services, LLC

By: _____ (Print Name)

Its: _____ (Title)

Dated: _____

In my capacity as _____ of Veolia Water North America Operating Services, LLC, I hereby aver that I am authorized to enter into this Agreement and thereby bind Veolia Water North America Operating Services, LLC to satisfy any obligation imposed upon it pursuant to said Agreement.

STATE OF RHODE ISLAND
COUNTY OF _____

In _____, in said County and State, on this _____ day of _____, 2011, before me personally appeared _____, the

_____ of Veolia Water North America Operating Services, LLC, a Rhode Island corporation, to me known and known by me to be the party executing the foregoing instrument on behalf of Veolia Water North America Operating Services, LLC, and he/she acknowledged said instrument by him/her executed, to be his/her/ free act and deed in said capacity and the free act and deed of Veolia Water North America Operating Services, LLC.

Notary Public
My Commission Expires: _____

For the State of Rhode Island Department of Environmental
Management

David E. Chopy, Chief
Office of Compliance and Inspection

Dated: _____