

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
OFFICE OF COMPLIANCE & INSPECTION**

**IN RE: Dadson Mobile Home Park**

**FILE NO.: OCI-OWTS-13-94**

NOTICE OF VIOLATION

A. Introduction

Pursuant to Sections 42-17.1-2(21) and 42-17.6-3 of the Rhode Island General Laws, as amended, (“R.I. Gen. Laws”) you are hereby notified that the Director of the Department of Environmental Management (the “Director” of “DEM”) has reasonable grounds to believe that the above-named party (“Respondent”) has violated certain statutes and/or administrative regulations under the DEM's jurisdiction.

B. Administrative History

On October 8, 2013, DEM issued a Notice of Intent to Enforce (“NIE”) to Respondent for one of the violations that is the subject of this Notice of Violation (“NOV”). The NIE required specific actions to correct the violation. On October 22, 2013, DEM received a letter from Respondent in response to the NIE. The letter stated that Respondent was working on a plan to install an onsite wastewater treatment system that will serve all the trailers in the park and that Respondent would have its engineer evaluate the system that is the subject of the NIE. Respondent installed a temporary repair to the system, however, as of the date of the NOV, Respondent has failed to fully comply with the NIE.

C. Facts

- (1) The property is located at the Dadson Mobile Home Park, 301 Bulgarmarsh Road, Assessor's Plat 410, Lot 125, in the Town of Tiverton, Rhode Island (the “Property”).
- (2) Respondent owns the Property.
- (3) On October 4, 2013, DEM inspected the Property. The inspection revealed that the onsite wastewater treatment system (“OWTS”) servicing unit 21 had failed and sewage was discharged from the OWTS to the surface of the ground as evidenced by:
  - (a) Observation of fluids on the surface of the ground and lush green vegetation in the area around the OWTS;
  - (b) Photographs showing the fluids on the surface of the ground and lush green vegetation in the area around the OWTS; and

- (c) Detection of odors associated with wastewater in the area around the OWTS.
- (4) On May 19, 2014, DEM issued an approval for a temporary holding tank to serve as the OWTS for unit 21. The approved plan stipulates that a new leaching field be designed and installed should Respondent fail to receive approval for or install an OWTS for all the trailer units on the Property.
- (5) On December 18, 2017, DEM issued an approval for an OWTS for all the trailer units on the Property, including unit 21. The approval expired on December 18, 2018.
- (6) On March 6, 2019, DEM inspected the Property. The inspection revealed that the OWTS serving units 69 and 70 was failed as evidenced by the liquid depth in the cesspool less than 6 inches from the inlet pipe invert.
- (7) Respondent failed to install the OWTS authorized under the approval for all the trailer units.
- (8) As of the date of the NOV, Respondent continues to use the temporary holding tank for unit 21 and has failed to apply to DEM for a new leaching field for unit 21.
- (9) As of the date of the NOV, Respondent has failed to comply with the Rhode Island Code of Regulations titled *Rules Establishing Minimum Standards Relating to Location, Design, Construction and Maintenance of Onsite Wastewater Treatment Systems (250-RICR-150-10-6)* (the “OWTS Regulations”).

D. Violation

Based on the foregoing facts, the Director has reasonable grounds to believe that you have violated the following statutes and/or regulations:

- (1) OWTS Regulations
  - (a) **Rule 8.4 [recently amended to Part 6.9(D)(3)]** – prohibiting the use of an OWTS that does not conform with the terms of a DEM permit.
  - (b) **Rule 8.5 – [recently amended to Part 6.9(E)]** – prohibiting the use of a failed OWTS except in accordance with the requirements of an enforcement notice from DEM.

E. Order

Based upon the violations alleged above and pursuant to R.I. Gen. Laws Section 42-17.1-2(21), you are hereby ORDERED to:

- (1) **IMMEDIATELY** take steps to reduce the discharge of sewage to the OWTS servicing units 69 and 70, such as through the installation and use of water conservation devices and fixtures and arrange to have the OWTS pumped by a permitted septage transporter as frequently as necessary to prevent the OWTS from overflowing or breaking out onto the surface of the ground. A list of permitted septage transporters can be obtained by contacting DEM's Office of Water Resources - OWTS Permitting at 222-6820 or from DEM's web page at: [www.dem.ri.gov/programs/benviron/waste/transport/septage.pdf](http://www.dem.ri.gov/programs/benviron/waste/transport/septage.pdf).
- (2) **IMMEDIATELY** cease use of any/all laundry washing machine(s) for unit 69 and 70. No laundry use is allowed until the OWTS is fully repaired.
- (3) **Within 30 days of receipt of the NOV**, submit a written proposal for a permanent solution to the violation for the OWTS serving units 69 and 70, that must include an inspection of the OWTS servicing units 69 and 70 by a licensed OWTS designer to determine the cause of the failure (the "System Assessment"). The System Assessment must be signed by the licensed designer who inspected the OWTS, must identify the size and location of the OWTS components, must set forth the probable cause(s) for the failure, and propose a plan, including a proposed timetable, for any repair work for the correction of the failure. If it is determined that the OWTS needs repair and public sewers will not be available for connection within 1 year, a formal application and plan must be submitted to DEM in accordance with the OWTS Regulations. **Any repairs or modifications to the OWTS require the prior approval of DEM.** The list of licensed OWTS designers can be obtained by contacting Deb Knauss at 222-4700, Ext. 7612 or from DEM's web page at: [www.dem.ri.gov/programs/benviron/water/licenses/OWTS/pdfs/deslist.pdf](http://www.dem.ri.gov/programs/benviron/water/licenses/OWTS/pdfs/deslist.pdf).
- (4) **Within 30 days of receipt of the NOV**, submit to DEM an application to install a leaching field for unit 21. The application must be prepared in accordance with the OWTS Regulations. **Any repairs or modifications to the OWTS require the prior approval of DEM.** The list of licensed OWTS designers can be obtained by contacting Deb Knauss at 222-4700, Ext. 7612 or from DEM's web page above.
- (5) The applications shall be subject to DEM's review and approval. Upon review, DEM shall provide written notification to you either granting formal approval or stating the deficiencies therein. Within 14 days (unless a longer time is specified) of receiving a notification of deficiencies in the applications, you must submit to DEM a modified proposal or additional information necessary to correct the deficiencies.

- (6) Commence work on the projects in accordance with the method approved by DEM within 20 days of approval (unless otherwise expressly authorized by DEM in writing to commence work later), and complete such work within 120 days of said approvals or other date specified by DEM.

F. Penalty

- (1) Pursuant to R.I. Gen. Laws Section 42-17.6-2, the following administrative penalty, as more specifically described in the attached penalty summary and worksheets, is hereby ASSESSED, jointly and severally, against each named respondent:

**\$2,200**

- (2) The proposed administrative penalty is calculated pursuant to the Rhode Island Code of Regulations titled *Rules and Regulations for Assessment of Administrative Penalties (250-RICR-130-00-1)* and must be paid to DEM within 30 days of your receipt of the NOV. Payment shall be in the form of a certified check, cashiers check or money order made payable to the “General Treasury - Water & Air Protection Program Account,” and shall be forwarded to the DEM’s Office of Compliance and Inspection, 235 Promenade Street, Suite 220, Providence, Rhode Island 02908-5767.
- (3) Penalties assessed against Respondent in the NOV are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
- (4) If any violation alleged herein shall continue, then each day during which the violation occurs or continues shall constitute a separate offense and the penalties and/or costs for that violation shall continue to accrue in the manner set forth in the attached penalty summary and worksheets. The accrual of additional penalties and costs shall be suspended if DEM determines that reasonable efforts have been made to comply promptly with the NOV.

G. Right to Administrative Hearing

- (1) Pursuant to R.I. Gen. Laws Chapters 42-17.1, 42-17.6, 42-17.7 and 42-35, each named respondent is entitled to request a hearing before DEM’s Administrative Adjudication Division regarding the allegations, orders and/or penalties set forth in Sections B through F above. All requests for hearing MUST:
  - (a) Be in writing. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.6-4(b);
  - (b) Be **RECEIVED** by DEM’s Administrative Adjudication Division, at the following address, within 20 days of your receipt of the NOV. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.7-9:

Administrative Clerk  
DEM - Administrative Adjudication Division  
235 Promenade Street, Room 350  
Providence, RI 02908-5767

- (c) Indicate whether you deny the alleged violations and/or whether you believe that the administrative penalty is excessive. See R.I. Gen. Laws Section 42-17.6-4(b); **AND**
  - (d) State clearly and concisely the specific issues which are in dispute, the facts in support thereof and the relief sought or involved, if any. See Part 1.7(B) of the Rhode Island Code of Regulations titled *Rules and Regulations for the Administrative Adjudication Division (250-RICR-10-00-1)*.
- (2) A copy of each request for hearing must also be forwarded to:
- Joseph J. LoBianco, Esq.  
DEM - Office of Legal Services  
235 Promenade Street, 4<sup>TH</sup> Floor  
Providence, RI 02908-5767
- (3) Each named respondent has the right to be represented by legal counsel at all administrative proceedings relating to this matter.
  - (4) Each respondent must file a separate and timely request for an administrative hearing before DEM's Administrative Adjudication Division as to each violation alleged in the written NOV. If any respondent fails to request a hearing in the above-described time or manner regarding any violation set forth herein, then the NOV shall automatically become a Final Compliance Order enforceable in Superior Court as to that respondent and/or violation and any associated administrative penalty proposed in the NOV shall be final as to that respondent. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and (vi) and 42-17.6-4(b) and (c).
  - (5) Failure to comply with the NOV may subject each respondent to additional civil and/or criminal penalties.
  - (6) An original signed copy of the NOV is being forwarded to the Town of Tiverton, Rhode Island wherein the Property is located to be recorded in the Office of Land Evidence Records pursuant to R.I. Gen. Laws Chapter 34-13 and Section 42-17.1-2(13), as amended.
  - (7) The NOV does not preclude DEM from taking any additional enforcement action nor does it preclude any other local, state, or federal governmental entities from initiating enforcement actions based on the acts or omissions described herein.

If you have any legal questions, you may contact (or if you are represented by an attorney, please have your attorney contact) Joseph J. LoBianco of DEM's Office of Legal Services at (401) 222-6607. All other inquiries should be directed to Stephen Tyrrell of DEM's Office of Compliance and Inspection at (401) 222-1360 ext. 7406.

Please be advised that any such inquiries do not postpone, eliminate, or otherwise extend the need for a timely submittal of a written request for a hearing, as described in Section G above.

FOR THE DIRECTOR

By: \_\_\_\_\_  
David E. Chopy, Administrator  
Office of Compliance and Inspection

Dated: \_\_\_\_\_

CERTIFICATION

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_  
the within Notice of Violation was forwarded to:

Dadson Mobile Home Park  
C/O Dadson Mobile Home Owners Association  
Steven J. Delisle, Registered Agent  
301 Bulgarmarsh Road, #71  
Tiverton, RI 02878

by Certified Mail.

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## ADMINISTRATIVE PENALTY SUMMARY

Program: OFFICE OF COMPLIANCE AND INSPECTION, OWTS  
 File No.: OCI-OWTS-13-94  
 Respondent: Dadson Mobile Home Park

<b>GRAVITY OF VIOLATION</b>					
SEE ATTACHED "PENALTY MATRIX WORKSHEETS."					
VIOLATION No. & CITATION	APPLICATION OF MATRIX		PENALTY CALCULATION		AMOUNT
	Type	Deviation	Penalty from Matrix	Number or Duration of Violations	
D(1)(a) – prohibiting the use of an OWTS that does not conform with the terms of a DEM permit.	Type I <i>(\$1,000 Max. Penalty) *</i>	Major	\$1,000	1 violation	\$1,000
D(1)(b) – prohibiting the use of a failed OWTS except in accordance with the requirements of an enforcement notice from DEM.	Type I <i>(\$1,000 Max. Penalty) *</i>	Major	\$1,000	1 violation	\$1,000
<b><i>SUB-TOTAL</i></b>					<b>\$2,000</b>

\*Maximum Penalties represent the maximum penalty amounts per day, per violation.

## ADMINISTRATIVE PENALTY SUMMARY (continued)

### ECONOMIC BENEFIT FROM NONCOMPLIANCE

COSTS OF COMPLIANCE, EQUIPMENT, O&M, STUDIES OR OTHER DELAYED OR AVOIDED COSTS, INCLUDING INTEREST AND/OR ANY COMPETITIVE ADVANTAGE DERIVED OVER ENTITIES THAT COMPLY. NOTE: ECONOMIC BENEFIT MUST BE INCLUDED IN THE PENALTY UNLESS:

- THERE IS NO IDENTIFIABLE BENEFIT FROM NONCOMPLIANCE; OR
- THE AMOUNT OF ECONOMIC BENEFIT CAN NOT BE QUANTIFIED.

<i>DESCRIPTION OF BENEFIT</i>	<i>CALCULATION</i>	<i>AMOUNT</i>
Cost of septic system pumping	1 occurrence @ \$200 each pumping	\$200
<b><i>SUB-TOTAL</i></b>		<b>\$200</b>

### COST RECOVERY

ADDITIONAL OR EXTRAORDINARY COSTS INCURRED BY THE DIRECTOR DURING THE INVESTIGATION, ENFORCEMENT AND RESOLUTION OF AN ENFORCEMENT ACTION (EXCLUDING NON-OVERTIME PERSONNEL COSTS), FOR WHICH THE STATE IS NOT OTHERWISE REIMBURSED.

A review of the record in this matter has revealed that DEM has not incurred any additional or extraordinary costs during the investigation, enforcement and resolution of this enforcement action (excluding non-overtime personnel costs), for which the State is not otherwise reimbursed.

**TOTAL PENALTY PROPOSED UNDER PENALTY REGULATIONS = \$2,200**



# PENALTY MATRIX WORKSHEET

CITATION: Prohibiting the use of an OWTS that does not conform with the terms of a DEM permit.

VIOLATION NO.: D (1)(a)

TYPE		
<input checked="" type="checkbox"/> <b>TYPE I</b> <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.	<input type="checkbox"/> <b>TYPE II</b> <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.	<input type="checkbox"/> <b>TYPE III</b> <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><b><u>FACTORS CONSIDERED:</u></b></p> <p>Taken from Part 1.10(A)(1)(b) of the Rhode Island Code of Regulations titled <i>Rules and Regulations for Assessment of Administrative Penalties (250-RICR-130-00-1)</i></p> <ol style="list-style-type: none"> <li>(1) <b>The extent to which the act or failure to act was out of compliance:</b> A temporary holding tank was approved by DEM on August 14, 2014 for unit 21. The holding tank remains in use. Preventing noncompliance with DEM approvals is a primary objective of the regulations and a major objective of the regulatory program.</li> <li>(2) <b>Environmental conditions:</b> The Property includes single-family trailers within a trailer park. The trailer park is densely populated.</li> <li>(3) <b>Amount of the pollutant:</b> Considered, but not utilized for this calculation.</li> <li>(4) <b>Toxicity or nature of the pollutant:</b> Considered, but not utilized for this calculation</li> <li>(5) <b>Duration of the violation:</b> Approximately 8 months. The holding tank was approved by DEM on August 14, 2014 on a temporary basis. The approval required installation of a leaching field unless an OWTS that served all the trailers was approved and installed. The approval for the OWTS for all the trailers was approved by DEM on December 18, 2017 and expired on December 18, 2018. The OWTS for all the trailers was not installed, and Respondent has not applied to DEM for a leaching field for unit 21.</li> <li>(6) <b>Areal extent of the violation:</b> Considered, but not utilized for this calculation.</li> <li>(7) <b>Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:</b> Respondent failed to install the OWTS for all the trailers or install a leaching field for unit 21.</li> <li>(8) <b>Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:</b> Considered, but not utilized for this calculation.</li> <li>(9) <b>The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:</b> Respondent had full control over the violation. The violation was foreseeable.</li> <li>(10) <b>Any other factor(s) that may be relevant in determining the amount of a penalty:</b> Considered, but not utilized for this calculation.</li> </ol>		
<input checked="" type="checkbox"/> <b>MAJOR</b>	<b>MODERATE</b>	<b>MINOR</b>

Penalty Matrix where the applicable statute provides for a civil penalty up to \$1,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	<b>MAJOR</b>	\$800 to \$1,000 <b>\$1,000</b>	\$600 to \$800	\$400 to \$600
	MODERATE	\$600 to \$800	\$400 to \$600	\$200 to \$400
	MINOR	\$400 to \$600	\$200 to \$400	\$100 to \$200

# PENALTY MATRIX WORKSHEET

CITATION: Prohibiting the use of a failed OWTS except in accordance with the requirements of an enforcement notice from DEM  
 VIOLATION NO.: D (1)(b)

TYPE		
<u>  X  </u> <b>TYPE I</b> <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.	<u>      </u> <b>TYPE II</b> <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.	<u>      </u> <b>TYPE III</b> <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.
DEVIATION FROM THE STANDARD THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><b>FACTORS CONSIDERED:</b></p> <p>Taken from Part 1.10(A)(1)(b) of the Rhode Island Code of Regulations titled <i>Rules and Regulations for Assessment of Administrative Penalties (250-RICR-130-00-1)</i></p> <ol style="list-style-type: none"> <li>(1) <b>The extent to which the act or failure to act was out of compliance:</b> Use of a failed OWTS for units 69 and 70. The repair of failed septic systems is a primary objective of the regulations and a major objective of the regulatory program.</li> <li>(2) <b>Environmental conditions:</b> The Property includes single-family trailers within a trailer park. The trailer park is densely populated.</li> <li>(3) <b>Amount of the pollutant:</b> Considered, but not utilized for this calculation.</li> <li>(4) <b>Toxicity or nature of the pollutant:</b> Wastewater contains many kinds of bacteria, viruses, and parasites that can cause serious or fatal diseases in both humans and animals, as well as being the source of extremely objectionable odors.</li> <li>(5) <b>Duration of the violation:</b> Full duration unknown – at least 5 months. The violation was first observed by DEM on March 6, 2019</li> <li>(6) <b>Areal extent of the violation:</b> Considered, but not utilized for this calculation.</li> <li>(7) <b>Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:</b> Respondent failed to have the system pumped as necessary and to have the OWTS repaired.</li> <li>(8) <b>Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:</b> Considered, but not utilized for this calculation.</li> <li>(9) <b>The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:</b> Respondent had full control over the violation. The violation was foreseeable. Respondent sent a letter to the owner of unit 70 that was received by DEM on February 15, 2019. The letter acknowledged that there was an issue with the OWTS and that Respondent was looking into retaining someone to evaluate the OWTS.</li> <li>(10) <b>Any other factor(s) that may be relevant in determining the amount of a penalty:</b> Considered, but not utilized for this calculation.</li> </ol>		
<u>  X  </u> <b>MAJOR</b>	<b>MODERATE</b>	<b>MINOR</b>

Penalty Matrix where the applicable statute provides for a civil penalty up to \$1,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	<b>MAJOR</b>	\$800 to \$1,000 <b>\$1,000</b>	\$600 to \$800	\$400 to \$600
	MODERATE	\$600 to \$800	\$400 to \$600	\$200 to \$400
	MINOR	\$400 to \$600	\$200 to \$400	\$100 to \$200