

**STATE OF RHODE ISLAND  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

**OFFICE OF COMPLIANCE & INSPECTION**

**IN RE: Jonathan C. Wales d/b/a Senesco Marine, LLC      FILE NO.: OCI-WP-22-147  
Christian F. Reinauer d/b/a Senesco Marine, LLC      x-ref. RIPDES RIR50N016  
Craig Reinauer d/b/a Senesco Marine, LLC**

**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 Rhode Island Department of Environmental Management (“Director” of “RIDEM”) has reasonable grounds to believe that the above-named parties (“Respondents”) have violated certain statutes and/or administrative regulations under RIDEM's jurisdiction.

**B.      ADMINISTRATIVE HISTORY**

Respondents operate a ship building and repair facility at a pier and drydock located on Narragansett Bay in North Kingstown, Rhode Island. On 12 September 2008, RIDEM issued a Notice of Violation (“2008 NOV”) to Senesco Marine, LLC (“Senesco”) for unauthorized discharges of pollutants (blast grit waste associated with sandblasting ship hulls) to Narragansett Bay from the facility. On 11 June 2009, RIDEM and Senesco executed a consent agreement to resolve the 2008 NOV, which included payment of an administrative penalty. On 12 May 2021 and 18 August 2022, RIDEM documented discharges of blast grit waste to Narragansett Bay from the facility and spoke with Respondents’ representatives at the time of the 18 August 2022 inspection. On 23 August 2022, RIDEM received an updated plan from Respondents’ representative describing actions that will be taken to prevent future discharges.

**C.      FACTS**

- (1) The property is located at 1390 Roger Williams Way in North Kingstown, Rhode Island (“Property”).
- (2) The Property includes a fixed pier and dry dock and a ship building and repair facility (“Repair Facility”) that generates sand blast grit, metal shavings and welding debris (“blast grit waste”) from sand blasting of ship hulls in dry dock.
- (3) On 23 October 2006, Senesco registered with the State of Rhode Island Secretary of State (“RISOS”) to do business in the State of Rhode Island as a foreign limited liability company.

- (4) On 1 August 2019, Senesco submitted to RIDEM a Notice of Intent and obtained coverage under the Rhode Island Pollutant Discharge Elimination System Multi-Sector General Permit for Stormwater Discharge Associated with Industrial Activity (“RIPDES Permit”). The RIDPES Permit (number RIR50R016) authorized Senesco to discharge stormwater associated with industrial activity from the Repair Facility to the Narragansett Bay.
- (5) On 1 August 2019, Senesco submitted to RIDEM a Stormwater Management Plan (“SWMP”). The SWMP describes the best management practices to be used during ship building and repair operations to prevent the discharge of pollutants from the Repair Facility to Narragansett Bay. The pollutants identified as significant material include aluminum, zinc, manganese, phosphorous, chromium, nickel, molybdenum, titanium, copper, boron, magnesium, tin, lead, and iron.
- (6) The RIPDES Permit requires Senesco to:
  - (a) comply with the conditions and requirements set forth in the RIPDES Permit.
  - (b) comply with the SWMP.
  - (c) submit a semi-annual Discharge Monitoring Report (“DMR”) to RIDEM.
  - (d) take all reasonable steps to minimize or prevent a discharge in violation of the permit.
  - (e) maintain in good working order and operate as efficiently as possible all treatment works to achieve compliance with the permit.
- (7) Among other requirements, the SWMP requires Senesco to:
  - (a) install fiber containment tarpaulins from the dry dock walls over the vessel down to the floor to encapsulate the work area to prevent particulate migration outside of the work area.
  - (b) maintain dust control.
  - (c) ensure that the containment material is effective at preventing particulate from escaping the work area.
  - (d) sweep, vacuum, and remove all blast grit waste from the dry dock as soon as possible upon completion of repair operations to prevent the blast grit waste from becoming airborne and to prevent the blast grit waste from mixing with rainwater.
- (8) On 12 May 2021, RIDEM inspected the Repair Facility. The inspection revealed that Senesco failed to operate the Repair Facility in accordance with the SWMP as evidenced by observation and photographs of the following:
  - (a) the presence of a large ship in dry dock with sand blasting equipment staged onsite.

- (b) laborers working on site sand blasting the hull of the ship in drydock.
  - (c) the presence of large gaps in the tarpaulins that were installed around the ship in drydock.
  - (d) the presence of blast grit waste on the surface of Narragansett Bay.
- (9) On 14 February 2022, RISOS revoked the Certificate of Organization for Senesco. Jonathan C. Whales, Christian F. Reinauer, and Craig Reinauer were the last known managers of Senesco.
- (10) On 12 July 2022, Senesco submitted to RIDEM a DMR for the period from 1 January 2022 through 30 June 2022. The DMR included laboratory analytical results of stormwater samples taken from the Property by Senesco that document the presence of aluminum, iron, lead, and zinc.
- (11) On 15 August 2022, Save-The-Bay sent electronic correspondence to RIDEM with two attached videos that were taken by an anonymous source. One video showed a large uncontrolled cloud of dust emanating from a ship under repair in dry dock at the Repair Facility. The ship did not appear to have any tarpaulin containment curtains to prevent the escape of blast grit waste. The second video shows an employee dumping blast grit waste over the gunnel of the ship in dry dock directly into Narragansett Bay.
- (12) On 18 August 2022, RIDEM inspected the Repair Facility. The inspection revealed that Respondents failed to operate the Repair Facility in accordance with the SWMP as evidenced by observation and photographs of the following:
- (a) the presence of a large ship in dry dock with sand blasting equipment staged onsite.
  - (b) laborers working on site cleaning up blast grit waste from previous ship repair work.
  - (c) standing puddles of water with blast grit waste on the dry dock.
  - (d) blast grit waste on the surface of Narragansett Bay on both the north and south sides of the dry dock.
- (13) During the inspection conducted on 18 August 2022, RIDEM's inspector spoke with Jennifer Stone ("Stone") and Ted Williams ("Williams") and was informed of the following:
- (a) Stone stated that the employee who was observed in the video dumping blast grit waste over the gunnel of the ship in dry dock was terminated upon Respondents becoming aware of the dumping incident.
  - (b) Williams stated that the Repair Facility was working on improving its environmental operations.

- (14) The Shipbuilders Council of America, a national trade association representing the United States shipyard industry, included information on its website that stated that tributyl tin, copper, nickel, zinc, lead, iron, manganese, chrome, magnesium, and aluminum are the pollutants of concern with exterior ship blasting operations and removal of paint.
- (15) On 23 August 2022, Williams submitted to RIDEM a document titled *Work Instruction 41 – Environmental BMP Repair Yard Blasting & Painting Operations* that provided workers with specific guidance on how to comply with the SWMP during repair operations.
- (16) Narragansett Bay in the area around the Repair Facility is a class SB1 water of the State pursuant to Part 1.25(K)(9) of Rhode Island’s *Water Quality Regulations* (250-RICR-150-05-1) (“WQ Rules”).
- (17) Pursuant to Part 1.10(E)(1) of the WQ Rules, the water quality criteria for Class SB1 waters specifies that no solids are allowable.
- (18) The discharge violated the water quality criteria for solids.
- (19) Respondents did not receive approval from RIDEM to discharge pollutants to waters of the State in non-compliance with the SWMP.

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) **R.I. Gen. Laws Section 46-12-5(b)** – requiring the discharge of any pollutant into waters of the State comply with the terms and conditions of a permit and applicable regulations.
- (2) **WQ Rules**
  - (a) **Part 1.11(A)** – prohibiting the discharge of pollutants into any waters of the State or any activity alone or in combination which the Director determines will likely result in the violation of any State water quality criterion or interfere with one or more of the existing or designated uses assigned to the receiving waters.
  - (b) **Part 1.13(B)** – requiring the discharge of pollutants into the waters of the State comply with the terms and conditions of a permit issued by RIDEM.
  - (c) **Part 1.15(A)** – prohibiting the discharge of any pollutant into or conducting any activity which will likely cause or contribute pollution to the waters of the State; or construction, installation or modification of any treatment works including the extension of sewers to an existing sewer system without having obtained all required approvals from the Director.

- (3) **Rhode Island’s Regulations for the Rhode Island Pollutant Discharge Elimination System (250-RICR-150-10-1) (“RIPDES Rules”)**
- (a) **Part 1.14(B)(1)** – requiring the permittee to comply with all conditions of the permit.
  - (b) **Part 1.14(E)** – requiring the permittee to take all reasonable steps to minimize or prevent a discharge in violation of the permit.
  - (c) **Part 1.14(F)** – requiring the permittee to maintain in good working order and operate as efficiently as possible all treatment works to achieve compliance with the permit.

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 AT ALL TIMES fully comply with the SWMP during all operations at the Repair Facility to ensure compliance with the RIPDES Permit.

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:

**\$25,000**

- (2) The proposed administrative penalty is calculated pursuant to Rhode Island’s *Rules and Regulations for Assessment of Administrative Penalties (250-RICR-130-00-1)* (“Penalty Regulations”) and must be paid to RIDEM within 30 days of your receipt of this Notice of Violation (“NOV”). Penalty payments shall be by one of two methods:

- (a) By certified check, cashier’s check, or money order made payable to the **General Treasury – Water and Air Protection Program** and forwarded to:

Administrator, RIDEM Office of Compliance and Inspection  
235 Promenade Street, Suite 220  
Providence, RI 02908-5767.

- (b) By wire transfer in accordance with instructions provided by RIDEM.
- (3) Penalties assessed against Respondents 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 RIDEM 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 RIDEM'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 RIDEM'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  
RIDEM - 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).
- (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 RIDEM's *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:

Christina Hoefsmit, Esquire  
RIDEM - 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 RIDEM'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) The NOV does not preclude the Director 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 Respondents have any legal questions, please contact (or if you are represented by an attorney, please have your attorney contact) Christina Hoefsmit of RIDEM's Office of Legal Services at (401) 222-6607 extension 2772023 or at [christina.hoefsmit@dem.ri.gov](mailto:christina.hoefsmit@dem.ri.gov). All other inquiries should be directed to Patrick J. Hogan of RIDEM's Office of Compliance and Inspection at (401) 222-1360 extension 2777119 or at [patrick.hogan@dem.ri.gov](mailto:patrick.hogan@dem.ri.gov).

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  
RIDEM Office of Compliance and Inspection

Date: \_\_\_\_\_

CERTIFICATION

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

Jonathan C. Wales d/b/a Senesco Marine, LLC  
1983 Richmond Terrace  
Staten Island, NY 10302

Christian F. Reinauer d/b/a Senesco Marine, LLC  
1983 Richmond Terrace  
Staten Island, NY 10302

Craig Reinauer d/b/a Senesco Marine, LLC  
1983 Richmond Terrace  
Staten Island, NY 10302

by Certified Mail.

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# ADMINISTRATIVE PENALTY SUMMARY

Program: Water Pollution  
 File No.: OCI-WP-22-147 x-ref. RIPDES RIR50N016  
 Respondents: Jonathan C. Wales d/b/a Senesco Marine, LLC  
 Christian F. Reinauer d/b/a Senesco Marine, LLC  
 Craig Reinauer d/b/a Senesco Marine, LLC

<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) through D (3) – Pollutant discharge to a water of the State	Type I <i>(\$25,000 Max. Penalty) *</i>	Major	\$25,000	1 violation	\$25,000
<b><i>SUB-TOTAL</i></b>					<b>\$25,000</b>

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

## 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.

A review of the record in this matter has revealed that Respondents have either enjoyed no identifiable benefit from the noncompliance alleged in this enforcement action or that the amount of economic benefit that may have resulted cannot be quantified.

## 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 RIDEM 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 = \$25,000**

# PENALTY MATRIX WORKSHEET

CITATION: Pollutant discharge to a water of the State

VIOLATION NOs.: D (1) through D (3)

TYPE		
<u>  X  </u> TYPE I	___TYPE II	___TYPE III
<u>DIRECTLY</u> related to protecting health, safety, welfare, or environment.	<u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment.	<u>INCIDENTAL</u> to protecting health, safety, welfare, or environment.

**DEVIATION FROM THE STANDARD**  
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.

**FACTORS CONSIDERED:**

Taken from Part 1.10(A)(1)(b) of the Penalty Regulations.

- (1) **The extent to which the act or failure to act was out of compliance:** Respondents discharged pollutants, in the form of blast grit waste, to Narragansett Bay. Preventing the discharge of pollutants to waters of the State is a primary objective of Rhode Island’s *Water Pollution Act*, the WQ Rules, and the RIPDES Rules and is of major importance to the regulatory programs.
- (2) **Environmental conditions:** The pollutants were discharged to Class SB1 waters. These waters are designated for primary and secondary contact recreational activities and fish and wildlife habitat. These waters shall be suitable for aquaculture uses (other than shellfish for direct human consumption), navigation, and industrial cooling. These waters shall have good aesthetic value. Primary contact recreational activities may be impacted due to pathogens from approved wastewater discharges. However, all Class B criteria must be met.
- (3) **Amount of the pollutant:** The total amount of blast grit waste generated during operations is not known to RIDEM. Respondents repair large ships and barges, more than 300 hundred feet long, on a pier that is over 1,100 feet long. During operations at the Repair Facility, Respondents load large quantities of collected blast grit waste into numerous large totes weighing several hundred pounds each. The specific quantity and concentration of the pollutant discharged to the Narragansett Bay is not known to RIDEM.
- (4) **Toxicity or nature of the pollutant:** Blast grit waste likely contained tributyl tin, copper, nickel, zinc, lead, iron, manganese, chrome, magnesium, aluminum, and particulates. High concentrations of these heavy metals can cause acute and/or chronic toxicity to fish and other aquatic organisms.
- (5) **Duration of the violation:** Full duration unknown. RIDEM documented the violation on 12 May 2021 and again on 18 August 2022.
- (6) **Areal extent of the violation:** Unknown.

(continued)

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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondents did not take appropriate steps to prevent the non-compliance. Respondents did not comply with their own SWMP resulting in the unauthorized discharge of the blast grit waste to Narragansett Bay. Respondents have since modified internal procedures and worker guidance documents to be used during operations at the Repair Facility to comply with the SWMP.
- (8) **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:** RIDEM issued the 2008 NOV to Senesco for discharge of blast grit waste to Narragansett Bay.
- (9) **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:** Respondents had full control over the violations. Negligence is attributable to Respondents for the failure to comply with the SWMP in violation of the RIPDES Permit.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** RIDEM documented the discharge of blast grit waste to Narragansett Bay on 12 May 2021 and on 18 August 2022. The penalty in the NOV is assessed only for the unauthorized discharge documented by RIDEM on 18 August 2022.

<u>  </u> <b>X</b> <u>  </u> <b>MAJOR</b>	<b>MODERATE</b>	<b>MINOR</b>
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		<b>TYPE I</b>	TYPE II	TYPE III
DEVIATION FROM STANDARD	<b>MAJOR</b>	\$12,500 to \$25,000 <b>\$25,000</b>	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250