

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

**OFFICE OF COMPLIANCE AND INSPECTION**

In Re: Town of Bristol

File No.: OCI-WP-17-13

X-ref. RIPDES Permit R10100005

AAD No.: 18-003/WRE

CONSENT AGREEMENT

**A. INTENT & PURPOSE**

This Agreement is entered by and between the Rhode Island Department of Environmental Management's Office of Compliance & Inspection ("RIDEM") and the Town of Bristol ("Bristol"). 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 alleged violations set forth in a Notice of Violation ("NOV") issued to Bristol by RIDEM on 30 March 2018.

**B. STIPULATED FACTS**

- (1) WHEREAS, Bristol owns and operates a wastewater treatment facility located at Plant Avenue in the Town of Bristol, Rhode Island (the "Facility").
- (2) WHEREAS, on 30 March 2018, RIDEM issued a NOV to Bristol alleging certain violations of Rhode Island's *Water Pollution Control Act*, the Rhode Island Code of Regulations titled *Water Quality Regulations (250-RICR-150-05-1)* (the "Water Quality Regulations"), the Rhode Island Code of Regulations titled *Regulations for the Rhode Island Pollutant Discharge Elimination System (250-RICR-150-10-1)* (the "RIPDES Regulations") and the Rhode Island Code of Regulations titled *Rules and Regulations for the Operation and Maintenance of Wastewater Treatment Facilities (250-RICR-150-10-4)* (the "O&M Regulations") at the Facility.
- (3) WHEREAS, Bristol requested an administrative hearing to contest the NOV.
- (4) WHEREAS, on July 23, 2018, Bristol submitted to RIDEM documents for improvements to the disinfection system (the "Disinfection System Improvements") at the Facility to comply with subsection E(2) of the NOV. The documents are attached hereto and incorporated herein as Attachment A.
- (5) WHEREAS, on 5 September 2018, RIDEM approved the Disinfection System Improvements.

- (6) WHEREAS, on 15 November 2018, Bristol submitted to RIDEM a report of the solids handling system (the “Solids Handling Report”) at the Facility to satisfy subsection E(5) of the NOV. The report is attached hereto and incorporated herein as Attachment B.
- (7) WHEREAS, on 11 January 2019, Bristol submitted to RIDEM a conceptual schematic plan for a redundant mixer for the disinfection system (the “Conceptual Mixer Plan”) at the Facility to comply with subsection E(1) of the NOV. The plan is attached hereto and incorporated herein as Attachment C.
- (8) WHEREAS, on 18 March 2019 and 19 March 2019, Bristol submitted to RIDEM a staffing and budget analysis (the “2019 Staffing/Budget Analysis”) of the Facility to comply with subsection E(4) of the NOV. The analysis is attached hereto and incorporated herein as Attachment D.
- (9) 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 Bristol 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.
- (10) WHEREAS, RIDEM finds that this Agreement is a reasonable and fair settlement and adequately protects the public interest in accordance with Rhode Island's Water Pollution Control Act, the Water Quality Regulations, the RIPDES Regulations and the O&M Regulations.

### **C. AGREEMENT**

- (1) JURISDICTION – RIDEM has jurisdiction over the subject matter of this Agreement and has personal jurisdiction over Bristol.
- (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. and R.I. Gen. Laws Section 42-17.7-1 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)(vi).
- (3) APPLICATION – The provisions of this Agreement shall apply to and be binding upon RIDEM, Bristol and its agents, servants, employees, successors, assigns and all persons, firms and corporations acting under, through and for Bristol in the performance of work relating to or impacting the requirements of this Agreement.

(4) CONDITIONS –

- (a) Bristol shall complete the following actions to comply with the Order section of the NOV:
- (i) **By 1 July 2019**, hire 2 additional full time equivalent (“FTE”) employees for the Facility consistent with the recommendations in the 2019 Staffing/Budget Analysis;
  - (ii) **By 30 September 2019**, complete the installation and make operational the Disinfection System Improvements;
  - (iii) **By 30 September 2019**, complete the drainage improvements at the Facility in accordance with subsection E(6) of the NOV;
  - (iv) **By 31 December 2019**, submit an Operations and Maintenance (“O&M”) Plan for the entire Facility to RIDEM, except for the bulk chemical storage tanks for the chlorination system and the solids handling portion of the Facility;
  - (v) **By 30 September 2020**, submit design plans and specifications to RIDEM for a redundant mixer at the Facility that is consistent with the Conceptual Mixer Plan. The submittal must include a schedule to complete the work to install and make operational the redundant mixer;
  - (vi) **By 1 March 2021**, submit design plans and specifications to RIDEM to upgrade the solids handling equipment at the Facility consistent with the Solids Handling Report. The submittal must include a schedule to complete the work to install and make operational the solids handling equipment and a schedule to submit an amended O&M Plan for the solids handling equipment to RIDEM; and
  - (vii) **Within 6 months of completion of the work described in subsection C(4)(a)(vi) above**, either hire 1 additional FTE employee for the Facility OR submit to RIDEM a staffing and budget analysis of the Facility (the “Revised Staffing/Budget Analysis”) that is consistent with the method used for the 2019 Staffing/Budget Analysis AND hire any additional FTE employees for the Facility that is recommended from the Revised Staffing/Budget Analysis.
- (b) The schedules, plans and other documents that Bristol is required to submit to RIDEM in accordance with subsection C(4)(a) above are subject to RIDEM’s review and approval. Upon review, RIDEM shall provide written notification to Bristol either granting formal approval or stating the deficiencies therein. Within 14 days (unless a longer time is specified) of receiving a notification of deficiencies, Bristol shall submit to RIDEM revised schedules, plans, documents or additional information necessary to correct the deficiencies.

- (c) Upon RIDEM's approval of the schedules, plans and other documents, Bristol shall complete all work required in accordance with the approved schedule.
- (d) Penalty – In lieu of a penalty for non-compliance, and in consideration that the NOV issued in this matter was not prosecuted or that any determination of liability was reached on the merits, and in further consideration that the parties agree an amicable resolution is in the best interest of the public and will more effectively preserve and enhance the environmental quality of Bristol's water bodies, 2 supplemental environmental projects shall be initiated and carried out by Bristol, as set forth in Attachment E, which is attached hereto and incorporated herein. For each supplemental environmental project ("SEP"), Bristol shall be given a credit for the SEP (the "SEP Credit").
- (i) **By 31 December 2021**, complete the SEP titled *Butterworth Avenue – End of Road Retrofit*. Bristol estimates this SEP is \$53,860. Bristol shall receive a credit of \$53,860 for this SEP; and
- (ii) **By 1 July 2022**, complete the SEP titled *San Miguel Drive – End of Road Retrofit*. Bristol estimates that the cost of this SEP is \$42,440. Bristol shall receive a credit of \$42,440 for this SEP.
- (e) If Bristol fails to timely complete a SEP, RIDEM shall notify Bristol that it intends to rescind the SEP Credit. Within 14 days of Bristol's receipt of written notification by RIDEM that RIDEM intends to rescind the SEP Credit, Bristol shall either complete the SEP or demonstrate that good cause exists for the delay in completing the SEP. If Bristol fails to complete the SEP or does not demonstrate good cause for the delay within said 14 days, Bristol shall, within 10 days of Bristol's receipt of a written notification from RIDEM, submit to RIDEM a check in the amount of the SEP Credit after which Bristol shall be under no further obligation to complete the SEP.
- (f) Penalties that Bristol agrees 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.
- (g) If Bristol fails to remit to RIDEM a payment on or before its due date, that payment will be considered late and Bristol will be in default. If the payment is not received within 30 days of its due date, interest shall begin to accrue on the entire unpaid balance at the rate of 12 percent per annum. Interest will accrue at this rate beginning with the day after the due date specified in this Agreement until such date all past due installment payments and interest owed are remitted. Interest shall be calculated using the following generally established accounting principle:

$$\text{Interest due} = (\text{number of days late}/365) \times (0.12) \times (\text{amount of unpaid balance})$$

This provision does not preclude RIDEM from seeking additional penalties according to Section D for failure to comply with the remaining provisions of this Agreement.

- (h) All penalty payments shall be in the form of a certified check, cashiers check, or money order, payable to the ***R.I. General Treasurer – Water and Air Protection Account***. All payments shall be delivered to:

Administrator, 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 – If Bristol fails to comply with items specified in subsection C(4)(a) of the Agreement, Bristol shall pay a stipulated penalty of \$500 per month for each 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 appropriate remedy (e.g., injunctive relief in Superior Court).
- (3) COMPLIANCE WITH OTHER APPLICABLE LAWS – Compliance with the terms of this Agreement does not relieve Bristol 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 statute 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 Bristol 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 Bristol 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 limited to violations alleged in the NOV.

- (7) NOTICE AND COMMUNICATION – Communications regarding this Agreement shall be directed to:

**David E. Chopy, Administrator**  
RIDEM Office of Compliance and Inspection  
235 Promenade Street  
Providence, RI 02908-5767  
(401) 222-1360 ext. 7400  
[david.chopy@dem.ri.gov](mailto:david.chopy@dem.ri.gov)

**Tricia Quest, Esquire**  
RIDEM Office of Legal Services  
235 Promenade Street, 4<sup>TH</sup> Floor  
Providence, RI 02908-5767  
(401) 222-4700 ext. 2408  
[tricia.quest@dem.ri.gov](mailto:tricia.quest@dem.ri.gov)

**Michael A. Ursillo, Esquire**  
Ursillo, Teitz & Ritch, Ltd.  
2 Williams Street  
Providence, RI 02903  
(401) 331-2222  
[mikeursillo@utrlaw.com](mailto:mikeursillo@utrlaw.com)

All communications regarding compliance with this Agreement shall be forwarded to the above-referenced addressees by certified mail.

- (8) DEFERRAL – The Director may, for good cause shown, defer any of the compliance dates prescribed herein. Good cause for deferral of any compliance date shall be forwarded to RIDEM in writing at least 15 days prior to the prescribed deadline.
- (9) AMENDMENT – The Agreement may be amended by agreement of the parties in writing.
- (10) EFFECTIVE DATE – This Agreement shall be deemed entered as of the date of execution by all parties.

[SIGNATURES ON FOLLOWING PAGES]

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

*For the Town of Bristol*

By: \_\_\_\_\_  
Honorable Steven Contente, Administrator

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

*State of Rhode Island, Department of Environmental Management*

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

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