

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

**IN RE: Richard J. DiSano, Sr.**

**FILE NO.: HW NO. 06-047  
AAD NO.: 08-004/WME**

**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 Richard J. DiSano, Sr. (the "Respondent"). This Agreement is entered in accordance with Section 42-17.1-2 et seq. of the Rhode Island General Laws ("R.I.G.L.") for the purpose of resolving the administrative enforcement action set forth in a Notice of Violation ("NOV") issued to the Respondent by RIDEM on May 16, 2008.

**B. *STIPULATED FACTS***

- (1) WHEREAS, the subject property is located at 1420 Elmwood Avenue in the City of Cranston, Rhode Island (the "Property").
- (2) WHEREAS, Respondent owns the Property. Respondent has owned the Property since at least June 7, 1984.
- (3) WHEREAS, on May 16, 2008, RIDEM issued a NOV to the Respondent alleging certain violations of the RIDEM Rules and Regulations for Hazardous Waste Management (the "Hazardous Waste Regulations").
- (4) WHEREAS, the Respondent requested an administrative hearing to contest the NOV.
- (5) WHEREAS, the Respondent complied with the Order section of the NOV.
- (6) WHEREAS, in lieu of proceeding to an administrative adjudicatory hearing and in order to effect a timely and amicable resolution of the NOV, RIDEM and the Respondent 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.
- (7) WHEREAS, RIDEM finds that this Agreement is a reasonable and fair settlement and adequately protects the public interest in accordance with the Hazardous Waste Regulations.

### **C. AGREEMENT**

- (1) **JURISDICTION** – RIDEM has jurisdiction over the subject matter of this Agreement and has personal jurisdiction over the Respondent.
- (2) **FORCE and EFFECT** – This Agreement shall have the full force and effect of a final compliance order of the Director issued after a full hearing on the merits pursuant to the Administrative Procedures Act, R.I.G.L. § 42-35-1 et seq. from which no timely appeal was taken, and which is enforceable in Superior Court in accordance with R.I.G.L. § 42-17.1-2(21)(v).
- (3) **APPLICATION** – The provisions of this Agreement shall apply to and be binding upon RIDEM, the Respondent and his agents, servants, employees, successors, assigns and all persons, firms and corporations acting under, through and for the Respondent in the performance of work relating to or impacting the requirements of this Agreement.
- (4) **CONDITIONS** –
  - (a) **Penalty** – Respondent shall pay to RIDEM the total sum of Two Thousand Five Hundred Dollars (\$2,500.00) in administrative penalties.
  - (b) Upon Respondent's execution of this Agreement, Respondent shall pay to RIDEM the sum of Six Hundred and Twenty-Five Dollars (\$625.00).
  - (c) The remainder of the penalty, One Thousand Eight Hundred and Seventy-Five Dollars (\$1,875.00) shall be paid to RIDEM in three equal payments of Six Hundred and Twenty-Five Dollars (\$625.00). The first payment shall be made on or before September 30, 2010, the second payment on or before October 31, 2010 and the third payment on or before November 30, 2010.
  - (d) In the event that the Respondent fails to remit to RIDEM a payment on or before its due date, that payment will be considered late and the Respondent will be in default. If the payment is not received within thirty days of its due date, interest shall begin to accrue on the unpaid balance at the rate of twelve 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 payment(s) and interest owed are remitted. Interest shall be calculated using the following generally established accounting principle:

Interest due = (number of days late/365) x (0.12) x (entire amount of unpaid balance)

- (e) All penalty payments shall be in the form of a certified check, payable to the *R.I. General Treasurer –Environmental Response Fund Account*. All payments shall be delivered, along with a copy of this Agreement, 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 dated May 16, 2008.
- (2) COMPLIANCE WITH OTHER APPLICABLE LAWS – Compliance with the terms of this Agreement does not relieve the Respondent of any obligation to comply with any other applicable laws or regulations administered by, through or for RIDEM or any other governmental entity.
- (3) 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.G.L. § 42-17.1-2(21). This Agreement shall not restrict any right to hearing or other right available by statute or regulation that the Respondent may have regarding any new enforcement action commenced by RIDEM after the execution of this Agreement.
- (4) FUTURE ACTIVITIES AND UNKNOWN CONDITIONS – This Agreement shall not operate to shield the Respondent from liability arising from future activities, as of the date of execution of this Agreement.
- (5) EFFECTIVE DATE – This Agreement shall be deemed entered as of the date of execution by all parties.
- (6) NOTICE AND COMMUNICATION - Communications regarding this Agreement shall be directed to:

Tracey Tyrrell, Supervising Environmental Scientist  
RIDEM Office of Compliance and Inspection  
235 Promenade Street  
Providence, RI 02908-5767  
(401) 222-1360 ext. 7407

Communications forwarded to the above-referenced address by certified mail shall be deemed received.

- (7) 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 fifteen (15) days prior to the prescribed deadline.

- (8) AMENDMENT – The Agreement may be amended by mutual agreement of the parties in writing.
- (9) 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 Richard J. DiSano, Sr.*

\_\_\_\_\_

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

In \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_ 2010, before me personally appeared Richard J. DiSano, Sr., to me known and known by me to be the party executing the foregoing Consent Agreement on behalf of himself and he acknowledged said instrument executed by him to be his free act and deed.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

*For the State of Rhode Island Department of  
Environmental Management*

\_\_\_\_\_  
David E. Chopy, Chief  
Office of Compliance and Inspection

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