

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

RE: Gannon & Scott, Inc.

**OC&I No. 2008-2561-HW
AAD No. 09-014/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 Gannon & Scott, Inc., (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 June 19, 2009.

B. STIPULATED FACTS

- (1) WHEREAS, the subject facility is located at 33 Kenney Drive in the City of Cranston, Rhode Island (the "Facility").
- (2) WHEREAS, the Respondent is registered with the Rhode Island Secretary of State's Office as a Domestic Profit Corporation, Identification Number 000009165 for the purpose of assaying, refining, smelting, manufacturing, selling, and otherwise dealing in metals, and having a principal place of business at 33 Kenney Drive, Cranston, Rhode Island.
- (3) WHEREAS, the Property is registered with the DEM pursuant to the *DEM Rules and Regulations for Hazardous Waste Management* (the "Hazardous Waste Regulations") as a small quantity generator of hazardous waste under the name of "Gannon & Scott, Inc.", and is identified by the U.S.E.P.A. hazardous waste generator identification number RID981886104.
- (4) WHEREAS, on June 19, 2009, RIDEM issued a NOV to Respondent alleging certain violations of the Hazardous Waste Regulations.
- (5) WHEREAS, the Respondent timely requested an administrative hearing to contest the NOV.
- (6) WHEREAS, the Respondent has complied with the Order portion of the NOV.

- (7) WHEREAS, in lieu of proceeding to an administrative adjudicatory hearing on the NOV 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.
- (8) WHEREAS, RIDEM finds that this Agreement is a reasonable and fair settlement and adequately protects the public interest in accordance with the Hazardous Waste Management Act R.I.G.L. § 23-19.1 et seq. and 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 its 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) PENALTY – Upon Respondents execution of this Consent Agreement, Respondent shall pay to RIDEM the total sum of Seventeen Thousand Five Hundred Dollars (\$17,500.00) in administrative penalties.
 - (a) Penalties that the Respondent agrees to pay in this Consent Agreement are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
 - (b) 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 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 June 19, 2009.

- (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) NOTICE AND COMMUNICATION - Communications regarding this Agreement shall be directed to:
 - (a) Tracey Tyrrell, Supervising Environmental Scientist, RIDEM Office of Compliance and Inspection, 235 Promenade Street, Providence, RI 02908-5767. Tel. (401) 222-1360, ext. 7407.
 - (b) Susan Wilson, Esq., RIDEM Office of Legal Services, 235 Promenade Street, Providence, RI 02908- 5767. Tel. (401) 222-6607.
 - (c) Joseph Peixoto, General Manager, Gannon & Scott, Inc., 33 Kennedy Drive, Cranston, RI 02920. Tel. (401) 463-5550.
- (6) 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.
- (7) AMENDMENT – The Agreement may be amended by mutual agreement of the parties in writing.
- (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 Gannon & Scott, Inc.

name and title of signing party

Date: _____

In _____, on the ____ day of _____, 2010, before me personally appeared _____ to me known and known by me to be the party executing the foregoing Consent Agreement on behalf of Respondent and s/he acknowledged said instrument executed by him/her to be his/her 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: _____