

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

OFFICE OF COMPLIANCE AND INSPECTION

In Re: Town of Smithfield
Smithfield School Department

File No.: AIR 11-08
AAD No.:11-004/ARE

CONSENT AGREEMENT

A. INTENT & PURPOSE

This Agreement is entered by and between the Rhode Island Department of Environmental Management Office of Compliance & Inspection (“RIDEM”) and the Town of Smithfield and the Smithfield School Department (the “Respondents”). 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 administrative enforcement action set forth in a Notice of Violation (“NOV”) issued to the Respondents by RIDEM on 8 June 2011.

B. STIPULATED FACTS

- (1) WHEREAS, the subject facility is the Smithfield High School located at 90 Pleasant View Avenue in the town of Smithfield, Rhode Island (the “Facility”).
- (2) WHEREAS, the town of Smithfield owns the Facility and the Smithfield School Department operates the Facility.
- (3) WHEREAS, the Facility is (and has been) a stationary source of air pollutants subject to RIDEM’s Air Pollution Control (“APC”) Regulations.
- (4) WHEREAS, on 8 June 2011, RIDEM issued a NOV to the Respondents alleging certain violations of APC Regulation No. 9.
- (5) WHEREAS, the Respondents requested an administrative hearing to contest the NOV.
- (6) WHEREAS, the Respondents complied with the Order section of the NOV.
- (7) 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 the Respondents 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 APC Regulations.

C. AGREEMENT

- (1) JURISDICTION – RIDEM has jurisdiction over the subject matter of this Agreement and has personal jurisdiction over the Respondents.
- (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. 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)(v).
- (3) APPLICATION – The provisions of this Agreement shall apply to and be binding upon RIDEM, the Respondents and their agents, servants, employees, successors, assigns and all persons, firms and corporations acting under, through and for the Respondents in the performance of work relating to or impacting the requirements of this Agreement.
- (4) PENALTY – Respondents shall pay to RIDEM the sum of **One Thousand Eight Hundred Eighty Eight Dollars (\$1,888.00)** in administrative penalties assessed as follows:
- (a) Upon execution of this Agreement by the Respondents, the Respondents shall pay to RIDEM the sum of **One Thousand Eight Hundred Eighty Eight Dollars (\$1,888.00)**.
- (b) Penalties that the Respondents agree 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.
- (c) All penalty payments shall be in the form of a check, payable to the ***R.I. General Treasurer – Water and Air Protection 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.
- (2) COMPLIANCE WITH OTHER APPLICABLE LAWS – Compliance with the terms of this Agreement does not relieve the Respondents 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. 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 the Respondents 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 Respondents from liability arising from future activities, as of the date of execution of this Agreement.
- (5) SCOPE OF THE AGREEMENT – The scope of the Agreement is only violations alleged in the NOV.
- (6) 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 the Town of Smithfield:

By: _____ (Print Name)

Its: _____ (Title)

Dated: _____

For the Smithfield School Department:

By: _____ (Print Name)

Its: _____ (Title)

Dated: _____

For the State of Rhode Island Department of
Environmental Management

David E. Chopy, Chief
Office of Compliance and Inspection

Dated: _____