

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

OFFICE OF COMPLIANCE AND INSPECTION

In Re: Sprague Energy Corp.

File No.: WP09-033

x-ref RIPDES RI0001384

AAD No.: 10-001/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 Sprague Energy Corp. (the "Respondent"). 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 Sprague Energy Corp. by RIDEM on January 28, 2010.

B. *STIPULATED FACTS*

- (1) WHEREAS, the subject facility is located at 144 Allens Avenue in the city of Providence, Rhode Island (the "Facility").
- (2) WHEREAS, on January 28, 2010, RIDEM issued an NOV to the Respondent alleging certain violations of Rhode Island's Water Pollution Act, Chapter 46-12, RIDEM's Water Quality Regulations and RIDEM's Regulations for the Rhode Island Pollutant Discharge Elimination (the "RIPDES Regulations").
- (3) WHEREAS, the Respondent requested an administrative hearing to contest the NOV.
- (4) WHEREAS, the Respondent complied with the Order section of the NOV.
- (5) WHEREAS, RIDEM's Office of Water Resources determined that the elevated levels of total suspended solids detected in the effluent from the Facility were most likely influenced by construction related to the State of Rhode Island Route I-195 Relocation Project.
- (6) 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 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 Rhode Island's Water Pollution Act, Chapter 46-12, RIDEM's Water Quality Regulations and RIDEM's RIPDES 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 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 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) CONDITIONS –
- (a) Penalty – The Respondent shall pay to RIDEM the sum of **Twenty One Thousand Two Hundred Fifty Dollars (\$21,250.00)** in administrative penalties assessed as follows:
- (i) Upon execution of this Agreement by the Respondent, the Respondent shall pay to RIDEM the sum of **Twenty One Thousand Two Hundred Fifty Dollars (\$21,250.00)**.
- (ii) Penalties that the Respondent 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.
- (iii) 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:

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 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. 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 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) SCOPE OF THE AGREEMENT – The Scope of the Agreement is only the violations alleged in the NOV, including the same violations alleged in the NOV that occurred from July 2009 to the date of execution of this Agreement.
- (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 Sprague Energy Corp.:

By: _____ (Print Name)

Its: Managing Director for Health, Safety
& Environmental Compliance

Date: _____

For the State of Rhode Island Department of
Environmental Management

David E. Chopy, Chief
Office of Compliance and Inspection