



RHODE ISLAND  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

September 29, 2011

**CERTIFIED MAIL**

Mr. C. Richard Paduch, Town Manager  
Town of Warren  
514 Main Street  
Warren, RI 02885-4369

**RE: Warren Wastewater Treatment Facility; Final Consent Agreement No. RIA-410**

Dear Mr. Paduch:

Enclosed please find a fully executed copy of Consent Agreement No. RIA-410 that resolves the Town of Warren's (Warren's) appeal of certain conditions of its Rhode Island Pollutant Discharge Elimination System (RIPDES) Permit No. RI0100056 that was issued on September 30, 2010. As a reminder, paragraph 10.A of the consent agreement requires a Draft Design Flow Report to be submitted to the Department of Environmental Management (DEM) within two (2) months of the date of execution of this agreement. Therefore, since the agreement was fully executed on September 29, 2011, the Draft Design Flow Report must be submitted to the DEM by November 29, 2011. Subsequent schedules are contingent upon DEM approval of the Draft Design Flow Report and are detailed in paragraph 10 of the consent agreement.

Thank you for your cooperation in reaching this Agreement. If you have any questions, you may contact Joseph Haberek, P.E. of the DEM's RIPDES Program at 401-222-4700, extension 7715.

Sincerely,

Angelo S. Liberti, P.E.  
Chief of Surface Water Protection

cc: Eric Beck, DEM (electronic)  
Joseph Camara, DEM (electronic)  
Annie McFarland, DEM (electronic)  
Bonnie Stewart, DEM (electronic)  
David Komeiga, United Water (electronic)  
Jonathan Himlan, Woodard & Curran (electronic)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
OFFICE OF WATER RESOURCES

IN RE: AAD No. 10-003/WRA

No. RIA-410

CONSENT AGREEMENT

This Consent Agreement is entered into by and between the Department of Environmental Management (the "DEM") and the Town of Warren (the "Respondent" or "Town"), which is responsible for the operation of the Warren Wastewater Treatment Facility, (the "Facility"), located in Warren, Rhode Island. This Agreement is entered into in accordance with Chapters 46-12 and 42-17.1 of the Rhode Island General Laws ("RIGL").

The DEM issued a final permit to the Town dated September 30, 2010 (the "Permit"). By a letters dated October 25, 2010 the Town requested an administrative hearing and moved to stay certain conditions of the Permit. In lieu of convening an Administrative Hearing regarding the disputed permit conditions and in order to effect a resolution of all disputed issues in this matter between DEM and the Respondent, the parties agree as follows:

1. The Respondent is subject to the provisions of Chapter 46-12 of the RIGL for purposes of this Agreement.
2. DEM has jurisdiction over the subject matter of this Agreement and has personal jurisdiction over the Respondent for purposes of this Agreement.
3. The provisions of this Agreement shall apply to and be binding upon the Respondent, its agents, servants, employees, successors and assigns, and all persons, firms and corporations acting under, through and for it.
4. The compliance with the terms of this Agreement does not relieve the Respondent from compliance with any other applicable laws or regulations administered by DEM or any other governmental entity. This Agreement shall not operate to shield the Respondent from liability arising from future activities, as of the date of execution of this Agreement. Execution of this Agreement is for the sole purpose of resolving AAD case number 10-003/WRA and does not in any way resolve any compliance issues associated with RIPDES Permit No. RI0100056.
5. Upon the determination by the Director of the DEM that there is an immediate threat to the public health or the environment, or upon the discovery of new information, the DEM reserves the right to order additional remedial action or other enforcement measures as provided by law or regulations.

6. The Director of the DEM may, for good cause shown, defer any of the compliance dates prescribed herein. In the event that the Respondent believes that good cause exists for extending any such dates, the Respondent shall submit a written request to DEM for an extension at least seven (7) days prior to such deadline, together with a complete statement of the reasons why the Respondent believes that such an extension is justified. Any such request shall be subject to DEM review and approval. If DEM denies the Respondent's extension request, that decision may be appealed to Superior Court in accordance with RIGL 42-35-1 et seq. The Agreement may be amended by mutual agreement of the parties in writing.
7. In the event that the Respondent fails to comply with any of the schedules in paragraph 10 of this Agreement it shall pay a stipulated penalty of one thousand dollars (\$1,000) a day for each and every day it remains in violation of the schedule. Penalties will not be assessed if the schedule has been extended for good cause under paragraph 6 and the Respondent complies with the extended schedule. The payment of a stipulated penalty in accordance with this paragraph shall not preclude DEM from seeking any other appropriate remedy.
8. In the event the Respondent fails to comply with any of the interim limits of paragraph 10 of this Agreement it may be subject to an administrative penalty as determined by the DEM in accordance with the *Rules and Regulations for Assessment of Administrative Penalties*. The payment of an administrative penalty in accordance with this paragraph shall not preclude DEM from seeking any other appropriate remedy.
9. This Agreement shall have the full force and effect of a final administrative adjudication, shall be deemed a final administrative decision under the Administrative Procedures Act (RIGL Chapter 42-34) and shall be fully enforceable in the Superior Court of the State of Rhode Island.
10. The Respondent shall attain compliance with the final effluent limits for Flow and Total Nitrogen for the May 1 – October 31 and November 1 – April 30 seasons, as specified in the Permit, in accordance with the following schedule:
  - A. Within two (2) months of the date of execution of this agreement, the Respondent shall submit a Draft Design Flow Report. The Draft Report shall be subject to DEM review, modification and approval. Within one (1) month of receipt of DEM's comments on the Report, the Respondent shall modify the Draft Design Flow Report in response to the DEM's comments and provide a public notice relative to the future sewerage needs evaluation and the determination of the revised design flow. Within one (1) month of the public notice, the Respondent shall hold a public meeting to obtain public input on the future sewerage needs evaluation and the determination of the revised design flow. Within one (1) month of the public meeting, the Respondent shall prepare a Final Design Flow Report and submit it to the DEM. At a minimum, the Report shall include the following information:

- (i) A summary of all I/I reduction work performed by the Town including, but not limited to, the results of its inspections of all commercial and industrial buildings with roof areas greater than 10,000 ft<sup>2</sup>.
- (ii) The results of its inspections of all municipal buildings.
- (iii) An estimate of the volume of I/I removed from any confirmed sources of I/I from large roofed buildings and municipal buildings.
- (iv) The results of its efforts to disconnect the previously identified 92 confirmed residential inflow sources.
- (v) The results of I/I removal activities at the former American Tourister mill facility.
- (vi) Detailed “after” flow analysis, based on the average and maximum daily wastewater flows through the Facility measured at the Facility’s intermediate pump station. The analysis shall document the extent to which both inflow and infiltration have been reduced and include a recommendation on whether, or not, additional corrective actions are needed and are cost effective.
- (vii) A determination of a revised design flow based on the results of the I/I removal work and a future sewerage needs evaluation that includes all of the minimum requirements of a Facilities Plan Amendment, up to and including section V of the DEM’s Facilities Plan Review Checklist.
- (viii) A detailed update on the Town’s implementation of the conditions, from the DEM’s August 12, 2010 letter, that the DEM placed on its approval of the recommended sewage disposal alternative for Touisset Point and the Highlands. At a minimum, this update shall include the following:
  - (a) An update on the Town’s merging adjacent, non-conforming lots that are in common ownership in the Touisset Point and Highlands areas.
  - (b) An update on the Town’s implementation of the recommendations of the approved Onsite Wastewater Management Plan.
  - (c) An update on the Town’s implementation of an ordinance requiring that all onsite wastewater disposal systems in the Touisset Point and Highlands areas utilize nitrogen reducing technologies.

- (d) An update on the Town's implementation of an Onsite Wastewater Management Ordinance that requires inspections of onsite wastewater disposal systems within the Touisset Point and Highlands areas.
- (e) An update on the Town's implementation of an inventory and maintenance/inspection tracking system for all onsite wastewater disposal systems within the Touisset Point and Highlands areas.
- (f) An update on the Town's evaluation of the adequacy of the public water supply system in the Touisset Point and Highlands areas and a recommendation on the need to upgrade/add supply wells.
- (g) An update on the Town's implementation of an ordinance prohibiting unmerging of lots for the purpose of building new homes in the Touisset Point and Highlands areas.
- (h) An update on the Town's efforts to acquire or secure an interest, or right of first refusal, for parcels identified as having potential for local community wastewater disposal facilities in the Touisset Point and Highlands areas. In particular, at least one parcel for Touisset Point (preferably 16-21) and a portion of one parcel for the Highlands (17-1 or 17-7).
- (i) A proposed schedule for completing any conditions from paragraphs 10.A(viii)(a) – 10.A(viii)(h) that have not been completed. The proposed schedule is subject to DEM review, modification, and approval.

B. Upon DEM approval of the Final Design Flow Report, the DEM will modify the Permit as necessary in response to the revised design flow(s). If the approved Final Design Flow Report recommends an increase in the design flow, the Town agrees not to appeal a permit modification that establishes lower concentration limits, for all pollutants except Total Nitrogen, provided that the lower concentration limits are established to keep the pollutant loadings in the modified Permit equal to the pollutant loadings in the current Permit. The Town agrees not to appeal a permit modification that establishes seasonal monthly average Total Nitrogen limits of 5.0 mg/l for May 1 – October 31 with flows of approximately 2.01 MGD and 9.5 mg/l for November 1 – April 30 with flows of approximately 3.3 MGD. These seasonal flows are based on preliminary figures and are not intended to be an approval of revised design flows in any way. The final design flow(s) will be determined by the Final Design Flow Report. The Town does not give up its ability to appeal revised limits that are not consistent with the above-mentioned limits.

- C. Within three (3) months of the DEM's issuance of the final permit modification from paragraph 10.B, the Respondent shall submit a draft Wastewater Facilities Plan Amendment that will include the revised design flow(s) from the approved Final Design Flow Report and an evaluation and recommendation of alternative(s) to attain compliance with the final permit limits. The three (3) month schedule assumes that the flows included in the final permit modification do not change from the flows in the approved Final Design Flow Report. The draft Wastewater Facilities Plan Amendment shall include engineering calculations that demonstrate compliance with the revised permit limits at the new design flow(s). The draft Wastewater Facilities Plan Amendment shall also include a schedule to submit an Order of Approval application to the DEM. The schedule shall assume two (2) months for DEM review of the draft Facilities Plan and three (3) months for the Respondent to conduct a public hearing, prepare a response to comments, and submit the final Wastewater Facilities Plan Amendment to DEM. The Facilities Plan Amendment shall be subject to DEM review, modification and approval.
- D. Upon approval of the Facilities Plan Amendment the Respondent shall submit an Order of Approval application for the selected treatment alternative(s) to the DEM in accordance with the approved schedule. At a minimum, the Order of Approval application shall include final plans, the appropriate fee, technical specifications, design calculations, and a schedule for construction and initiation of operation (not to exceed December 1, 2015 which includes three months for DEM review and issuance of an Order of Approval), which are subject to DEM review, modification, and approval. Initiation of operation shall be defined as the date of substantial completion of construction.
- E. Upon receipt of an Order of Approval for the selected treatment alternative(s), the Respondent shall complete construction and initiate operation of the equipment required therein in accordance with the approved schedule.
- F. From the date of execution of this Agreement until three (3) months after completion of construction and initiation of operation of the selected treatment alternative(s), the Respondent shall meet the interim limitations for Flow and Total Nitrogen in *Attachments 1* and *2* of this Agreement, which is attached hereto and incorporated herein. For any pollutants not specifically listed in the Attachments, the Respondent shall be subject to the final limits from the Permit.
11. No later than fourteen (14) calendar days following a date identified in any schedule of compliance, the Respondent shall submit either a report of progress or, in the case of specific actions being required by identified dates, a written notice of compliance or noncompliance. In the latter case, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirements.

12. All reports and other documentation that the Respondent is required to submit to the DEM by the terms of this Agreement shall be sent to the Office of Water Resources, RIPDES Program, 235 Promenade Street, Providence, RI 02908-5767. Each document shall be subject to DEM review and approval. Upon DEM review of the document, DEM shall provide written notification to the Respondent, either granting approval or stating the deficiencies revealed therein. Within fourteen (14) days (unless a longer time is specified) of receiving a notification of deficiencies, the Respondent shall submit to DEM a revised document consistent with the DEM comments.
13. This Agreement supersedes Consent Agreement RIA-335.
14. This Agreement shall be deemed entered as of the date of execution by the parties.

TOWN OF WARREN

David Frerichs  
**DAVID FRERICHS**, **COUNCIL PRESIDENT**  
 (Name), (Title)

SEPT. 14, 2011  
 Date

The individual signing on behalf of the Town of Warren represents that he/she has the actual authority to enter into this Agreement, and the authority to bind the Town of Warren to the requirements contained within.

In Warren Town Hall, on the 14<sup>th</sup> day of September 2011, before me personally appeared David Frerichs (signing party's name), to me known and known by me to be the party executing the foregoing Consent Agreement on behalf of the Town of Warren and the acknowledged said instrument executed by him/~~her~~ to be his/~~her~~ free act and deed.

Elizabeth Johnson  
 Notary Public  
 My Commission expires: 6/5/2013

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
 FOR THE DIRECTOR

Angelo S. Liberti  
 Angelo S. Liberti, P.E.  
 Chief of Surface Water Protection  
 Office of Water Resources

September 29, 2011  
 Date

**ATTACHMENT 1**

**PART I**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

1. During the period beginning on the effective date and lasting through the completion of Paragraph 10.F of Consent Agreement RIA-410, the permittee is authorized to discharge from outfall serial number 001 (Final Discharge from the WWTF After All Treatment Processes). Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Monitoring Requirement</u>	
	Quantity – lbs/Day	Concentration - specify units		Measurement Frequency	Sample Type
Flow	Average Monthly	Average Monthly	Average Weekly	Continuous	Recorder
	Maximum Daily	Maximum Daily	Maximum Daily		
	--- MGD	---	MGD		

--- Signifies a parameter which must be monitored and data must be reported; no limit has been established at this time.

Sampling for Flow shall be performed Sunday – Saturday.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location: at Outfall 001 (Final Discharge from the WWTF After All Treatment Processes).

**ATTACHMENT 2**

**PART I**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

- During the period beginning on the effective date and lasting through the completion of Paragraph 10.F of Consent Agreement RIA-410, the permittee is authorized to discharge from outfall serial number 001 (Final Discharge from the WWTF After All Treatment Processes). Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirement</u>		
	Quantity – lbs/Day		Concentration - specify units		Measurement Frequency	Sample Type	
	Average Monthly	Maximum Daily	Average Monthly	Average Weekly	Maximum Daily		
Total Nitrogen (TKN + Nitrate + Nitrite, as N) (May 1 – October 31)		--- lbs/day	--- mg/L		---mg/L	1/Week	Calculated
(November 1 – April 30)		--- lbs/day	--- mg/L		---mg/L	1/Week	Calculated

--- Signifies a parameter which must be monitored and data must be reported; no limit has been established at this time.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location: at Outfall 001 (Final Discharge from the WWTF After All Treatment Processes).