

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

**OFFICE OF COMPLIANCE AND INSPECTION**

In Re: John Crispino  
Natalina Crispino

File No.: C-1128

**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"), Luigi Crispino, and Giovanna Crispino (Luigi Crispino and Giovanna Crispino are hereinafter collectively referred to as the "Crispino's"). 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 alleged violations set forth in a Notice of Violation issued to John Crispino and Natalina Crispino by the RIDEM on 6 October 1981 and newly identified violations within freshwater wetlands on the property that is the subject of this Agreement.

**B. STIPULATED FACTS**

- (1) WHEREAS, the property is located north of Scituate Avenue, approximately 2200 feet east of Pippin Orchard Road, Assessor's Plat 34, Lots 6 and 56, in the city of Cranston (the "Property").
- (2) WHEREAS, the Property includes a residential dwelling (the "Dwelling").
- (3) WHEREAS, John Crispino and Natalina Crispino owned the Property (the "Former Owners").
- (3) WHEREAS, on 6 October 1981, the RIDEM issued a Notice of Violation to the Former Owners alleging certain violations of Rhode Island's Freshwater Wetlands Act on the Property (the "1981 NOV").
- (4) WHEREAS, the 1981 NOV ordered the Former Owners to, among other actions, cease further alterations of freshwater wetlands on the Property.
- (5) WHEREAS, the 1981 NOV was recorded in the land evidence records of the city of Cranston on 7 October 1981 within Book 486 at Pages 887 and 888 (the "Recorded NOV").
- (6) WHEREAS, on 12 December 2006, Luigi Crispino and Giovanna Crispino acquired the Property.

- (7) WHEREAS, on 8 February 2017, the RIDEM inspected the Property at the request of Luigi Crispino.
- (8) WHEREAS, the inspection revealed that portions of the violations that are the subject of the 1981 NOV remain in place and additional violations within freshwater wetlands are present (the “New Violations”).
- (9) WHEREAS, the RIDEM prepared a sketch showing the wetland restoration required on the Property to resolve the violations that are the subject of the 1981 NOV and the New Violations, which is attached hereto and incorporated herein as Attachment 1 (the “Attachment 1”).
- (10) WHEREAS, in lieu of proceeding to Superior Court to enforce the 1981 NOV and the New Violations, the RIDEM and the Crispino’s hereby agree that it is in the best interest of the parties and in the public interest to resolve the issues raised in the 1981 NOV and the New Violations.
- (11) WHEREAS, the RIDEM finds that this Agreement is a reasonable and fair settlement and adequately protects the public interest in accordance with Rhode Island’s Freshwater Wetlands Act and the RIDEM’s *Rules and Regulations for Governing the Administration and Enforcement of the Freshwater Wetlands Act* (the “Freshwater Wetland Regulations”).

### **C. AGREEMENT**

- (1) JURISDICTION – The RIDEM has jurisdiction over the subject matter of this Agreement and has personal jurisdiction over the Crispino’s.
- (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. and R.I. Gen. Laws Section 42-17.7-1 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)(vi).
- (3) APPLICATION – The provisions of this Agreement shall apply to and be binding upon the RIDEM, the Crispino’s, and their agents, servants, employees, successors, assigns and all persons, firms and corporations acting under, through and for the Crispino’s in the performance of work relating to or impacting the requirements of this Agreement.
- (4) RECORDING OF AGREEMENT AND RELEASE OF NOV – Within 10 days of the receipt of the fully executed Agreement from the RIDEM, the Crispino’s shall record this Agreement with the city of Cranston and shall provide a copy of the recorded Agreement to the RIDEM. Upon receipt of the recorded Agreement, the RIDEM shall issue a Release and Discharge of the Recorded NOV to the Crispino’s for recording. The recordings shall be at the sole expense of the Crispino’s.

(5) CONDITIONS –

- (a) The Crispino's shall restore the freshwater wetlands on the Property in accordance with Attachment 1 and the following requirements. It is acknowledged that any discrepancy between Attachment 1 and the requirements of this Agreement shall be governed by the Agreement.
- (i) Prior to the commencement of restoration, install a continuous uninterrupted line of staked haybales, silt fence, fiber logs, or other acceptable soil erosion/sediment control devices between all existing disturbed surfaces/areas to be restored and any adjacent undisturbed freshwater wetlands. These soil erosion and sediment controls must be regularly inspected and properly and continually maintained (and replaced, if necessary) during and following the completion of the required wetland restoration, and until such time that all of the surrounding areas are properly stabilized. At the discretion and direction of the RIDEM, additional soil erosion and sediment controls must be installed on-site, as deemed necessary, to protect any and all freshwater wetlands.
  - (ii) Remove all unauthorized fill materials from "Area A" and "Area B" as shown on Attachment 1, including but not limited to, unvegetated soil stockpiles, crushed stone, rock and boulder stockpiles, yard waste/slash, firewood piles, stone pavers and cobblestones, granite pieces, chain-link fencing and metal posts, stored site construction materials (for example, concrete pipes, manholes, covers, galley structures, cinder-blocks), pallets, wooden fence sections (stockpiled), and wire fencing. All material must be placed in an appropriate upland location, outside of any and all freshwater wetlands.
  - (iii) Remove or turn-over/scarify all lawn areas existing within "Area A" and "Area B" as shown on Attachment 1, either manually, or using low impact equipment (for example, rototiller or tractor tiller attachment), then seed with a wildlife conservation seed mixture.
  - (iv) Plant balled and burlapped or transplanted tree species and shrub species within "Area A" and "Area B" as shown on Attachment 1 as follows:
    - 1. Within "Area A", plant trees 20 feet on-center and 4 feet to 5 feet tall after planting, within those locations where no woody vegetation exists (that is, currently in a cleared condition) and in those locations where fill material must be removed and thereafter will be devoid of vegetation. Tree plantings must include an equal distribution of at least 3 of the selections listed below. In these areas, shrubs must also be planted 10 feet on center and 3 feet to 4 feet tall after planting. Shrub plantings must include an equal distribution of at least 4 of the selections listed below.
    - 2. Within "Area B", with the exception of the area within 10 feet of the northeast corner of the Dwelling, plant trees 10 feet on-center and 4 feet to 5 feet tall after planting. Tree plantings must include an equal distribution of at least 2 of the selections listed below. Within the entire area encompassed

by “Area B”, plant shrubs 5 feet on center and 3 feet to 4 feet tall after planting. The shrub plantings must include an equal distribution of at least 3 of the selections listed below.

3. With the exception of the area within 10 feet of the northeast corner of the Dwelling, plant a row of evergreen trees in a straight line, 10 feet on center and 5 feet to 6 feet tall after planting, along the outer edge of “Area B”. The plantings must include an equal distribution of at least 2 of the evergreen selections listed below.

Tree species may be chosen from the following list:

White pine, *Pinus strobus*  
Northern white cedar (eastern arborvitae), *Thuja occidentalis*  
White spruce, *Picea glauca*  
Eastern hemlock, *Tsuga canadensis*  
Red maple, *Acer rubrum*  
Box elder, *Acer negundo*  
Black cherry, *Prunus serotina*  
White ash, *Fraxinus americana*  
White oak, *Quercus alba*  
Northern red oak, *Quercus rubra*  
Sassafras, *Sassafras albidum*  
Sycamore, *Platanus occidentalis*  
Gray birch, *Betula populifolia*  
Black birch, *Betula lenta*  
American beech, *Fagus grandifolia*

Shrub species may be chosen from the following list:

Mountain laurel, *Kalmia latifolia*  
Giant rhododendron, *Rhododendron maximum* (shaded areas)  
Gray (stiff, red panicle) dogwood, *Cornus foemina racemosa*  
Silky dogwood, *Cornus amomum*  
Arrowwood (southern), *Viburnum dentatum*  
American cranberrybush, *Viburnum trilobum*  
Mapleleaf viburnum, *Viburnum acerifolium*  
Wild raisin, *Viburnum cassinoides*  
Inkberry, *Ilex glabra*  
Lowbush blueberry, *Vaccinium angustifolium*  
Sweet pepperbush, *Clethra alnifolia*  
Bayberry, *Myrica pennsylvanica*  
Winterberry, *Ilex verticillata*  
Black chokeberry, *Aronia melanocarpa*  
Witchhazel, *Hamamelis virginiana*

- (v) Any of the required plantings failing to survive at least 1 full year from the time they have been planted must be replanted (with the same or similar species), and further replaced (as necessary) until such time that survival is maintained over the entire following year.

- (vi) Install “RIDEM Buffer Zone” markers along the outer edge of “Area A” and “Area B” as shown on Attachment 1. The markers must be permanent in character (for example, galvanized metal or pressure-treated 4 inch x 4 inch wooden posts, at least 4 feet in height, with a permanent metal buffer marker sign) and be placed approximately 40 feet apart and/or at crucial angle points along the boundary lines specified above (approximately 20 posts).
  - (vii) Cover all disturbed surfaces within wetlands and the surrounding areas resulting from the above restoration activities with a suitable plantable soil (4 inch minimum, as necessary), properly seed the surfaces, and then stabilize the surfaces with a thick mat of straw mulch, which is free of any contaminants that might promote the spread of invasive plant species. Hydro-seed, containing the proper seed components and mixed with a proper tackifier (stabilizing mulch material, free of contaminants) may be used in lieu of the above stabilization measures. Steeply sloping areas or denuded/disturbed areas to be left exposed for long periods of time must be covered with excelsior matting, jute mesh, or other acceptable (biodegradable) erosion control matting material.
  - (viii) All restored wetland areas, including replanted areas, must be allowed to revegetate naturally and revert to a natural wild state. No future clearing, mowing, cutting, trimming, or other disturbances, alterations, or improvements are allowed within the restored wetland areas, or within any other freshwater wetlands on the Property, without first obtaining a valid permit from the RIDEM, except for exempt activities as defined in the RIDEM’s Freshwater Wetland Regulations.
  - (ix) Upon stabilization of disturbed/restored surface areas, all artificial erosion and sedimentation controls (for example, silt fences and silt curtains) must be removed from the freshwater wetlands. Staked haybales, spread straw mulch, and other naturally-based/bio-degradable erosion control measures may remain in place to decompose naturally. Prior to the removal of the controls and/or prior to the contractor vacating the site, all accumulated sediment must be removed to a suitable upland area and all disturbed surfaces must be stabilized as described above.
- (b) All work in Section C (5)(a) shall be completed by **30 October 2017**.
- (6) RIGHT OF ACCESS – The Crispino’s shall provide to the RIDEM, its authorized officers, employees and representatives an irrevocable right of access to the Property at all reasonable times for the purpose of monitoring compliance with this Agreement. The Crispino’s shall ensure that assignees, successors in interest, lessees, sublessees, tenants in possession and/or occupants of the Property shall provide the same access and cooperation as long as they control the Property. The Crispino’s shall provide a copy of this Agreement to any current lessee, sublessee, tenant in possession and/or occupant of the Property as of the effective date of this Agreement. Any subsequent leases, subleases, assignments or transfers of the Property or an interest in the Property

shall include this right of access provision and shall otherwise be consistent with the terms of this Agreement.

#### ***D. COMPLIANCE***

- (1) EFFECT OF COMPLIANCE – Compliance with and fulfillment of this Agreement shall be deemed to resolve all issues raised in the 1981 NOV and the New Violations. Upon the Crispino’s successful completion of the requirements set forth in this Agreement, the RIDEM shall issue a Release and Discharge of this Agreement to the Crispino’s for recording. The recording shall be at the sole expense of the Crispino’s.
- (2) FAILURE TO COMPLY – In the event that the Crispino’s fails to comply with the items specified in Section C (5)(a) of the Agreement by the deadline specified in Section C (5)(b) of the Agreement, the Crispino’s shall pay a stipulated penalty of \$500 per month for each and every month during which the noncompliance continues, except that the RIDEM may, for good cause shown, defer or reduce such penalty. The payment of a penalty in accordance with this section shall not preclude the RIDEM from seeking any other appropriate remedy (e.g., injunctive relief in Superior Court). Luigi Crispino and Giovanna Crispino are jointly and severally liable for any and all penalties that become due and owing to DEM as a result of failing to comply with this Agreement.
- (3) COMPLIANCE WITH OTHER APPLICABLE LAWS – Compliance with the terms of this Agreement does not relieve the Crispino’s of any obligation to comply with any other applicable laws or regulations administered by, through or for the RIDEM or any other governmental entity.
- (4) 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, the RIDEM reserves the right to take additional enforcement actions as provided by statute 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 RIDEM or the Crispino’s may have regarding any new enforcement action commenced by the RIDEM after the execution of this Agreement.
- (5) FUTURE ACTIVITIES AND UNKNOWN CONDITIONS – This Agreement shall not operate to shield the Crispino’s from liability arising from future activities, as of the date of execution of this Agreement.
- (6) SCOPE OF THE AGREEMENT – The scope of the Agreement is limited to violations alleged in the 1981 NOV and the New Violations.

- (7) NOTICE AND COMMUNICATION – Communications regarding this Agreement shall be directed to:

**David E. Chopy, Chief**  
RIDEM Office of Compliance and Inspection  
235 Promenade Street, Room 220  
Providence, RI 02908-5767  
(401) 222-1360 ext. 7400

**Christina Hoefsmit, Esq.**  
RIDEM Office of Legal Services  
235 Promenade Street, 4<sup>th</sup> Floor  
Providence, RI 02908-5767  
(401) 222-6607 ext. 2023

**Luigi Crispino**  
94 Carriage Drive  
Lincoln, RI 02865

- (a) At any time prior to full compliance with the terms of this Agreement, the Crispino's agree to notify the RIDEM in writing of any change in ownership of the Property, and provide the name and address of the new owner(s). Notice of any change in address/telephone/fax of either party shall be sent to all other parties by certified mail.
- (b) All communications regarding compliance with this Agreement shall be forwarded to the above-referenced addressees by certified mail.
- (8) 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 the RIDEM in writing at least 15 days prior to the prescribed deadline.
- (9) AMENDMENT – The Agreement may be amended by mutual agreement of the parties in writing.
- (10) EFFECTIVE DATE – This Agreement shall be deemed entered as of the date of execution by all parties.

**IN WITNESS WHEREOF, the undersigns consent to this Agreement in substance and in form.**

*Luigi Crispino*

\_\_\_\_\_  
Luigi Crispino

Dated: \_\_\_\_\_

**STATE OF RHODE ISLAND**  
**COUNTY OF \_\_\_\_\_**

In \_\_\_\_\_, in said County and State, on this \_\_\_\_\_ day of \_\_\_\_\_, 2017, before me personally appeared Luigi Crispino to me known and known by me to be the party executing the foregoing instrument and he acknowledged said instrument and the execution thereof, to be his free act and deed.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

*Giovanna Crispino*

\_\_\_\_\_  
Giovanna Crispino

Dated: \_\_\_\_\_

**STATE OF RHODE ISLAND**  
**COUNTY OF \_\_\_\_\_**

In \_\_\_\_\_, in said County and State, on this \_\_\_\_\_ day of \_\_\_\_\_, 2017, before me personally appeared Giovanna Crispino to me known and known by me to be the party executing the foregoing instrument and she acknowledged said instrument and the execution thereof, to be her free act and deed.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_



*State of Rhode Island, Department of Environmental  
Management*

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

Dated: \_\_\_\_\_