

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

October 29, 2015

In the Matter of
Riverside Auto Sales and Salvage, Inc.

Docket No. 2015-005
DEP File No.:
Stipulated Penalty Demand Notice
ACO-SE-09-3P-006-STIP

FINAL DECISION

In March 2015, the Petitioner Riverside Auto Salvage, Inc. filed this appeal challenging a Demand for Payment of \$7,500.00 in Stipulated Penalties (“Stipulated Penalties Demand”) that the Southeast Regional Office of the Massachusetts Department of Environmental Protection (“MassDEP” or “the Department”) issued to the Petitioner on February 20, 2015. The Department issued the Stipulated Penalties Demand as a result of the Petitioner’s alleged failure to comply with a June 2009 Administrative Consent Order (“the June 2009 ACO”) that the Petitioner executed with the Department to address the Petitioner’s violations of the Massachusetts Oil and Hazardous Material Release and Prevention Act, G.L. c. 21E (“Chapter 21E”), and the Massachusetts Contingency Plan Regulations (“MCP Regulations”) at 310 CMR 40.0000. The Petitioner violated Chapter 21E and the MCP Regulations during the course of operating its used car sales and salvage of junk cars business at 1 Beech Street in Acushnet, Massachusetts (“the Site”).

The Stipulated Penalties Demand asserted that the June 2009 ACO established timelines for the Petitioner to take certain actions to address its violations of Chapter 21E and the MCP

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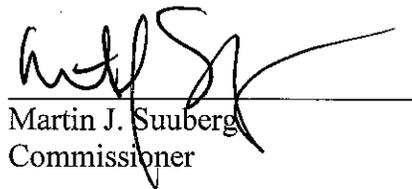
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Regulations and that the Petitioner had failed to take those actions triggering the June 2009 ACO's provisions requiring the Petitioner to pay Stipulated Penalties of \$1,000.00 per day for each day the violations occurred. Stipulated Penalties Demand, at pp. 1-2. On April 23, 2015, the Petitioner filed a letter with the Office of Appeals and Dispute Resolution ("OADR") essentially conceding that it had failed to comply with the June 2009 ACO and was liable for payment of the \$7,500.00 in Stipulated Penalties by contending that it was "unable [at that time] to pay this amount . . . due to a financial hardship" and requesting to "make payment arrangements [for the amount due] that would help [the Petitioner] with the situation. . . ." As a result, the Petitioner and the Department began settlement negotiations and reached agreement for the Petitioner to pay the \$7,500.00 in Stipulated Penalties in four equal installments of \$1,875.00 within one year of my issuance of a Final Decision approving their Settlement Agreement. Department's Motion to Approve Settlement and for Issuance of Final Decision (October 14, 2015), ¶¶ 3-5.

Currently pending before me for review pursuant to 310 CMR 1.01(8)(c), is a proposed Settlement Agreement that the Petitioner and the Department have executed to settle the Petitioner's appeal of the Stipulated Penalties Demand as set forth above. The Settlement Agreement is in the form of an Administrative Consent Order With Penalty and Notice of Non-Compliance ("Consent Order") that has been executed by: (1) Marc Cenerizio, the Petitioner's President and (2) Millie Garcia-Serrano, MPH, Acting Regional Director of the Department's Southeast Regional Office.

After reviewing the Consent Order, I find that it is reasonable and furthers the statutory and regulatory interests of Chapter 21E, and the MCP Regulations. Accordingly, I issue this

1.01(8)(c), this appeal is dismissed with the parties waiving whatever rights they may have to further administrative review before the Department as well as any appeal to Court.



Martin J. Suuberg
Commissioner

SERVICE LIST

In the Matter of
Riverside Auto Sales and Salvage, Inc.

Docket No. 2015-005
DEP File No.:
Stipulated Penalty Demand Notice
ACO-SE-09-3P-006-STIP

Petitioner: Riverside Auto Sales and Salvage, Inc.
c/o Mark Cenerizio, President
22 Lake Street
Acushnet, MA 02743; and

c/o Mark Cenerizio, President
1 Beech Street
Acushnet, MA 02743

e-mail: Not stated in Appeal Notice;

Legal representative: None stated in Appeal Notice;

The Department: Gerard Martin, Chief, Brownsfields, C & E and
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MassDEP/Southeast Regional Office
Bureau of Waste Site Cleanup
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In the Matter of Riverside Auto Sales and Salvage, Inc.
Docket No. 2014-022
Final Decision

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