



west virginia department of environmental protection

Division of Water and Waste Management
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Charleston, WV 25304
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Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
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**CONSENT ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11**

TO: Nancy Pizzuto
Putnam Scrap and Recycling
190 Pickens Road
Nitro, W.V. 25143

DATE: April 16, 2012

ORDER NO.: 7490

INTRODUCTION

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter "Director"), under the authority of West Virginia Code, Chapter 22, Article 11, Section 1 et seq. to. Putnam Scrap and Recycling (hereinafter "PSR").

FINDINGS OF FACT

In support of this Order, the Director hereby finds the following:

1. PSR operates a scrap and waste recycling facility located in Putnam County, West Virginia.
2. Establishments with discharges composed entirely of stormwater associated with industrial activities must obtain a permit from the West Virginia Department of Environmental Protection (WVDEP) pursuant to West Virginia State Code (22-11-8) and Legislative Rule (47CSR10).
3. On December 9, 2010, WVDEP personnel conducted an inspection of the aforesaid facility and determined that PSR failed to apply for and maintain a WV/NPDES permit for the regulated activity. Notice of Violation No. W10-40-11-MBC was issued.
4. On November 7, 2011, WVDEP personnel conducted a site visit of the aforesaid facility. During the visit, WVDEP personnel assisted PSR with identifying its outlet point and completing its WV/NPDES industrial stormwater application.

5. On December 6, 2011, PSR was issued WV/NPDES Permit No. WV0111457, Registration No. WVG611554.
6. On March 5, 2012, WVDEP personnel received correspondence from PSR that discussed the terms and conditions of this Order.

ORDER FOR COMPLIANCE

Now, therefore, in accordance with Chapter 22, Article 11, Section 1 et seq. of the West Virginia Code, it is hereby agreed between the parties, and ORDERED by the Director:

1. PSR shall immediately take all measures to initiate compliance with all pertinent laws and rules.
2. Because of PSR's West Virginia Code and Legislative Rule violations, PSR shall be assessed a civil administrative penalty of four thousand six hundred ninety dollars (\$4,690) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund within thirty (30) days of entry of this Order. Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. **Payment shall be mailed to:**

**Chief Inspector
Environmental Enforcement - Mail Code #031328
WV-DEP
601 57th Street SE
Charleston, WV 25304**

OTHER PROVISIONS

1. PSR hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 11, Section 21 of the Code of West Virginia. Under this Order, PSR agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, PSR does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding PSR other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, PSR shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after PSR becomes aware of

such a delay, notification shall be provided to the Director/Chief Inspector and shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which PSR intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of PSR (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.

4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving PSR of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject PSR to additional penalties and injunctive relief in accordance with the applicable law.
5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on PSR its successors and assigns.
7. This Order shall terminate upon PSR's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.

Nancy Pizzuto / President
Nancy Pizzuto
Putnam Scrap and Recycling

5-8-2012

Date



MAY 09 2012

Public Notice begin:

ENVIRONMENTAL
ENFORCEMENT

Date

Public Notice end:

Date

Scott G. Mandirola, Director
Division of Water and Waste Management

Date