



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
www.dep.wv.gov

**CONSENT ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11**

TO: Remac Inc./Summit Point Salvage & Recycling
Mark Soresi
10860 Spring Knoll Dr.
Potomac, MD 20854

DATE: June 14, 2013

ORDER NO.: 7758

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 Remac Inc./Summit Point Salvage & Recycling (hereinafter "Summit Point").

FINDINGS OF FACT

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

1. Summit Point operates a salvage & recycling facility located in Jefferson County, West Virginia. Summit Point was issued WV/NPDES Water Pollution Control Permit No. WV0111457, Registration No. WVG611299, on July 14, 2010.
2. On September 6, 2011, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV State Code, WV Legislative Rules, and Summit Point's WV/NPDES permit were observed and documented:
 - a. B.17.A.a.G.2.A – Summit Point failed to implement good housekeeping practices by not cleaning up petroleum based spills. Petroleum based fluids were floating on puddles of water throughout the property.
 - b. 22-15-10 (a) and 33CSR1 Section 7 - Summit Point allowed an open dump to exist on the property.

Promoting a healthy environment.

As a result of the aforementioned violations, Notice of Violation (NOV) No. w11-19-100-203 was issued to Summit Point.

3. On November 23, 2011, WVDEP received correspondence from Summit Point, outlining its plan to comply with the NOV issued on September 6, 2011.
4. On March 13, 2012, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV State Code, WV Legislative Rules, and Summit Point's WV/NPDES permit were observed and documented:
 - a. B.17.A.a.G.2.A – Summit Point failed to implement good housekeeping practices by not cleaning up petroleum based spills. Petroleum based fluids were floating on puddles of water throughout the property.
 - b. 22-15-10 (a) and 33CSR1 Section 7 - Summit Point allowed an open dump to exist on the property.
 - c. 47CSR11 Section 2.5.a – Summit Point failed to remediate spills.

As a result of the aforementioned violations, NOV No. i12-19-035-203 was issued to Summit Point.

5. On June 4, 2012, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and Summit Point's WV/NPDES permit were observed and documented:
 - a. B.17.A.a.G.2.A – Summit Point failed to implement good housekeeping practices by not cleaning up petroleum based spills. Petroleum based fluids were floating on puddles of water throughout the property.
 - b. 47CSR11 Section 2.5.a. – Summit Point failed to remediate spills.
 - c. Summit Point cleaned the open dump previously observed during the September 6, 2011 and March 13, 2012 inspections.

As a result of the aforementioned violations, NOV No. i12-19-065-203 was issued to Summit Point.

6. On April 24, 2013, WVDEP personnel and representatives of Summit Point met to discuss 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. Summit Point shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules.

2. Within thirty (30) days of the effective date of this Order, Summit Point shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Summit Point will achieve compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules. The plan shall include, but not be limited to, a delineation of all on-site and off-site areas contaminated as a result of spillage of petroleum derived products. The plan of corrective action shall be submitted to:

**WVDEP Environmental Inspector Supervisor
NE Regional Environmental Enforcement Office
HC63 Box 2545
Romney, WV 26757**

A copy of this plan shall be submitted to:

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

Upon approval, the plan of corrective action and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable plan of corrective action and schedule or failure to adhere to the approved schedule is a violation of this Order.

3. Because of Summit Point's permit violations, Summit Point shall be assessed a civil administrative penalty of eight thousand one hundred thirty dollars (\$8,130) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund in accordance with the following schedule:

Payment 1 in the amount of \$1,355 due on or before August 1, 2013.
Payment 2 in the amount of \$1,355 due on or before September 1, 2013.
Payment 3 in the amount of \$1,355 due on or before October 1, 2013.
Payment 4 in the amount of \$1,355 due on or before November 1, 2013.
Payment 5 in the amount of \$1,355 due on or before December 1, 2013.
Payment 6 in the amount of \$1,355 due on or before January 1, 2014.

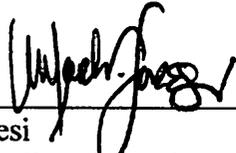
Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. **Payment shall be mailed to:**

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

OTHER PROVISIONS

1. Summit Point 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, Summit Point 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, Summit Point 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 Summit Point 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, Summit Point 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 Summit Point 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 Summit Point 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 Summit Point (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 Summit Point 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 Summit Point 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 Summit Point, its successors and assigns.

7. This Order shall terminate upon Summit Point's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



Mark Soresi
Remac Inc./Summit Point Salvage & Recycling

8/16/2013

Date

Public Notice begin:

RECEIVED

Date

AUG 26 2013

Public Notice end:

ENVIRONMENTAL
ENFORCEMENT

Date

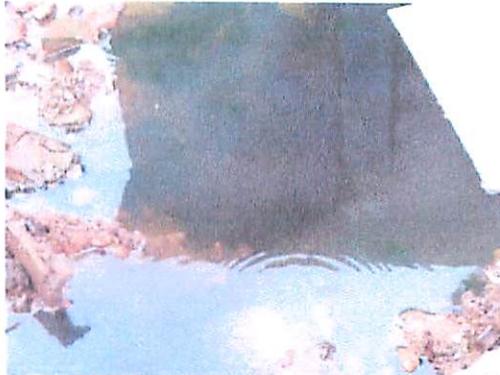
Scott G. Mandirola, Director
Division of Water and Waste Management

Date

revised September 2011

Pictures

9/6/11



Sheen on ground and on the water.

3/13/12



Crusher with absorbant under it



100+ tires



Fuel inside of gas tank.



Gas tank



Staining on ground



Red material floating in water



Red material floating in water

6/4/12



Contaminated soil in a roll off



Staining on ground



Sheen on the water in the excavation site

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party: Summit Point Salvage Receiving Stream: _____

Treatment System Design Maximum Flow: _____ MGD

Treatment System Actual Average Flow: _____ MGD (if known)

Enter FOF# and rate each finding as to Potential and Extent.

1)	Potential for Harm Factor	Factor Range	FOF#											
			2a	4a	5a									
a)	Amount of Pollutant Released	1 to 3	1	1	1									
b)	Toxicity of Pollutant	0 to 3	1	1	1									
c)	Sensitivity of the Environment	0 to 3	1	1	1									
d)	Length of Time	1 to 3	1	2	3									
e)	Actual Exposure and Effects thereon	0 to 3	1	1	1									
Average Potential for Harm Factor			1	1.2	1.4	No								
2)	Extent of Deviation Factor	Factor Range												
	Degree of Non-Compliance	1 to 3	2	2	2									

Potential for Harm Factors:

- 1)c - Sensitivity of the Environment Potentially Affected (0 for "dead" stream)
- 1)d - Length of Time of Violation
- 1)e - Actual Human/Environmental Exposure and Resulting Effects thereon

Examples/Guidance:

Note: Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.

Minor = exceedance of permit limit by <=40% for Avg. Monthly or <=100% for Daily Max., exceed numeric WQ standard by <= 100%, or report doesn't contain some minor information.

Moderate = exceedance of permit limit by >= 41% and <= 300% for Avg. Monthly , >= 101% and <= 600% for Daily Max., exceed numeric WQ standard by >= 101% and <= of 600% or report doesn't fully address intended subject matter.

Major = exceedance of permit limit by >= 301% for Avg. Monthly, >= 601% for Daily Max., exceed numeric WQ standard by >= 601%, failure to submit a report, failure to obtain a permit, failure to report a spill, etc. Note that a facility in SNC should be rated as major for length of time and degree of non-compliance.

Narrative WQ standard violations - case-by-case.

		Extent of Deviation from Requirement		
		Major	Moderate	Minor
Potential for Harm to Human Health or the Environment	Major	\$8,000 to \$10,000	\$6,000 to \$8,000	\$5,000 to \$6,000
	Moderate	\$4,000 to \$5,000	\$3,000 to \$4,000	\$2,000 to \$3,000
	Minor	\$1,500 to \$2,000	\$1,000 to \$1,500	Up to \$1,000

FOF #	Potential for Harm	Extent of Deviation	Penalty	Multiple Factor	Base Penalty
2a	Minor	Moderate	\$1,500	1	\$1,500
4a	Moderate	Moderate	\$3,200	1	\$3,200
5a	Moderate	Moderate	\$3,400	1	\$3,400
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
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0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
Total Base Penalty					\$8,100

Penalty Adjustment Factors

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor

6.2.b.1 - Degree of or absence of willfulness and/or negligence - 0% to 30% increase
 6.2.b.4 - Previous compliance/noncompliance history - 0% to 100% increase - based upon review of last three (3) years - Warning = maximum of 5% each, N.O.V. = maximum of 10% each, previous Order = maximum of 25% each - Consistent DMR violations for <1 year = 10% maximum, for >1 year but <2 years = 20% maximum, for >2 years but <3 years = 30% maximum, for >3 years = 40 % maximum

6.2.b.6 - Economic benefits derived by the responsible party (increase to be determined)

6.2.b.7 - Public Interest (increase to be determined)

6.2.b.8 - Loss of enjoyment of the environment (increase to be determined)

6.2.b.9 - Staff investigative costs (increase to be determined)

6.2.b.10 - Other factors

Size of Violator: 0 - 50% decrease

NOTE: This factor is not available to discharges that are causing a water quality violation. This factor does not apply to a commercial or industrial facility that employees or is part of a corporation that employees more than 100 individuals.

Avg. Daily WW Discharge Flow (gpd)	% Reduction Factor
< 5,000	50
5,000 to 9,999	40
10,000 to 19,999	30
20,000 to 29,999	20
30,000 to 39,999	10
40,000 to 99,999	5
> 100,000	0

Additional Other factors to be determined for increases or decreases on a case-by-case basis.

Public Notice Costs (cost for newspaper advertisement)

6.2.b.2 - Good Faith - 10% decrease to 10% increase

6.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease

6.2.b.5 - Ability to pay a civil penalty - 0% to 100% decrease

Base Penalty Adjustments

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor	% Increase	% Decrease	Base Penalty Adjustments
6.2.b.1 - Willfulness and/or negligence -	10		\$810
6.2.b.4 - Compliance/noncompliance history	10		\$810
6.2.b.6 - Economic benefits - (flat monetary increase)			\$0
6.2.b.7 - Public Interest - (flat monetary increase)			\$0
6.2.b.8 - Loss of enjoyment - (flat monetary increase)			\$0
6.2.b.9 - Investigative costs - (flat monetary increase)			\$0
6.2.b.10 - Other factors (size of violator)			\$0
6.2.b.10 - Additional Other Factors - Increase (flat monetary increase)			\$0
6.2.b.10 - Additional Other Factors - Decrease (flat monetary decrease)			\$0
Public Notice Costs (flat monetary increase)	\$30		\$30
6.2.b.2 - Good Faith - Increase			\$0
6.2.b.2 - Good Faith - Decrease		10	(\$810)
6.2.b.3 - Cooperation with the Secretary		10	(\$810)
6.2.b.5 - Ability to Pay			\$0
Penalty Adjustments			\$30
Penalty =			\$8,130

Estimated Economic Benefit Item	Estimated Benefit (\$)
Monitoring & Reporting	
Installation & Maintenance of Pollution Control Equipment	
O&M expenses and cost of equipment/materials needed for compliance	
Permit Application or Modification	
Competitive Advantage	
Estimated Economic Benefit	\$0
Comments:	