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In the Matter of:	:	STIPULATION AND CONSENT ORDER
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Out of the Woods Custom Cabinetry, Inc	:	No. 2205042
Notice of Violation and Compliance Order	:	
No. 2202016	:	
UTR000015099	:	

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This **STIPULATION AND CONSENT ORDER** (CONSENT ORDER) is issued by the **DIRECTOR OF THE UTAH DIVISION OF WASTE MANAGEMENT AND RADIATION CONTROL** pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code § 19-6-101, *et seq.*

JURISDICTION

1. The Director has jurisdiction over the subject matter of this **CONSENT ORDER** pursuant to Utah Code §§ 19-6-107 and 19-6-112 and jurisdiction over Out of the Woods Custom Cabinetry, Inc. (OOTW) facility owned and operated by OOTW. OOTW consents to and will not challenge issuance of this **CONSENT ORDER** or the Director’s jurisdiction to enter and enforce this **ORDER**. OOTW and the Director are the parties to this agreement.

FINDINGS

2. Out of the Woods is a corporation registered to conduct business in the State of Utah. Out of the Woods is the owner and operator of the Out of the Woods Custom Cabinetry, Inc. facility.
3. The OOTW facility is a custom cabinet and countertop manufacturing facility located in Davis County, Utah. OOTW operates the facility under the provisions of the Utah Solid and Hazardous Waste Rules.
4. OOTW is a "person" as defined in Utah Code § 19-1-103(4) and is subject to all applicable provisions of the Act, and the Utah Administrative Code (Rules).
5. Pursuant to Utah Code § 19-6-109, on January 19, 2022, authorized representatives of the Director (inspectors) conducted a compliance evaluation inspection at OOTW.
6. Based on findings documented during the compliance evaluation inspection on January 19, 2022, the Director issued Notice of Violation and Compliance Order (NOV/CO) No. 2202016 which cited five violations of the Act and the Rules.
7. On April 2, 2022, OOTW filed a written response (DSWH-2022-005601) to the NOV/CO describing the affirmative actions taken to correct the violations and to prevent reoccurrence.
8. On June 30, 2022, the Director and his representatives met with OOTW to discuss requirements of the Act and the Rules, and resolution of the NOV/CO.

9. On September 8, 2022, the Director and his representatives again met with OOTW to discuss resolution of the NOV/CO.
10. Based on the April 2, 2022, OOTW response (DSWH-2022-005601) to the NOV/CO and information provided during the June 30, 2022 and September 8, 2022 meetings, OOTW has addressed the cited violations as follows:
 - a. Out of the Woods purchased a commercial grade scale to accurately determine and track the amount of hazardous waste generated in each calendar month since April 1, 2022.
 - b. Out of the Woods trained all employees who handle hazardous waste in (1) the proper procedures to close containers (drums) containing hazardous waste with the recently purchased “latch ring” closures; (2) the proper labeling of hazardous waste containers (drums); and (3) HAZMAT Awareness training.
 - c. Out of the Woods trained all employees with a HAZMAT general awareness training, including the proper management of spills and use of a “spill control kit” acquired on March 28, 2022.
 - d. Out of the Woods conducts inspections to ensure hazardous waste containers remain closed unless adding or removing waste and that the containers are properly labelled.
 - e. Out of the Woods ordered a solvent recycle machine to reduce and recycle the amount of hazardous waste generated.
11. The Director finds OOTW has made a timely, good faith effort to address the violations cited in the NOV/CO.
12. In accordance with the Civil Penalty Policy, Utah Admin. Code R315-102 of the Rules, which considers such factors as the gravity of the violation, the extent of deviation from the rules, the potential for harm to human health and the environment, good faith efforts to comply, and other factors, the Director calculated and proposed a penalty based on the violations alleged in the NOV/CO No. 2202016.

STIPULATION AND CONSENT ORDER

13. This CONSENT ORDER has been negotiated in good faith and the parties now wish to fully resolve Notice of Violation and Compliance Order No. 2202016 without further administrative or judicial proceedings.
14. In full settlement of the violations alleged in NOV/CO No. 2202016, OOTW shall pay a penalty of \$6,471.00 (six thousand four hundred seventy-one dollars). OOTW shall make payment, to the State of Utah, Department of Environmental Quality, c/o Director, Utah Division of Waste Management and Radiation Control, P.O. Box 144880, Salt Lake City, Utah 84114-4880, as follows:
 - a. A cash payment of \$1,000.00 (one thousand dollars) shall be made with thirty days after the effective date of this CONSENT ORDER.

- b. An additional amount of \$1,100.00 (one thousand, one hundred dollars), may be credited to OOTW if within one year of the effective date of this CONSENT ORDER, OOTW submits to the Director the training completion and certification and documentation of payment for at least one individual managing OOTW's hazardous waste who completed the McCoy RCRA Fundamentals and Critical Generator Issues training class. If OOTW elects to forego the training, OOTW shall pay the amount of \$1,100.00 (one thousand, one hundred dollars) within thirty (30) days after its decision, no later than three hundred and ninety-five (395) days after the effective date of this CONSENT ORDER.
- c. An additional amount up to \$1,000.00 (one thousand dollars), may be credited to OOTW if within one year of the effective date of this CONSENT ORDER, OOTW completes a Supplemental Environmental Project (SEP) by purchasing, installing, and operating a solvent recycler or distiller to reduce the amount of hazardous waste generated at the OOTW facility. To document its purchase, installation, and operation of the SEP, no later than 30 days from the one year anniversary of the effective date of this CONSENT ORDER, OOTW shall submit to the Director (1) a copy of the solvent recycler invoice identifying the cost, the manufacture, and serial number, (2) proof of payment by OOTW to purchase the recycler, (3) the date the recycler became operational, and (4) amount of solvent processed through the recycler and amount of hazardous waste produced since the recycler began operations.
- d. An amount of \$3,371.00 (three thousand, three hundred and seventy-one dollars) shall be deferred and waived by the Director if OOTW remains in compliance with all applicable requirements of the Act and Rules for a minimum of two years from the effective date of this CONSENT ORDER. If the Director finds OOTW violated requirements of the Act or the Rules, OOTW shall pay the amount of \$3,371.00 (three thousand, three hundred and seventy-one dollars), within thirty (30) days after any notice of violation, that was issued by the Director after the effective date of this CONSENT ORDER, becomes final.
- e. If OOTW fails to pay the amount specified in ¶ 13.a within the allotted time, OOTW may not be credited for the amount specified in ¶¶ 13.b and 13.c, nor will the Director defer or waive the amount specified in 13.d.

EFFECT OF CONSENT ORDER

15. For the purpose of this CONSENT ORDER, the parties agree and stipulate to the above stated facts. The obligations in this CONSENT ORDER apply to and are binding upon the Division of Waste Management and Radiation Control and upon OOTW and any of OOTW's successors, assigns, or other entities or persons otherwise bound by law.
16. The stipulations contained herein are for the purposes of settlement and shall not be considered admissions by any party and shall not be used by any person related or unrelated to this CONSENT ORDER for purposes other than determining the basis of this CONSENT ORDER. Nothing contained herein shall be deemed to constitute a waiver by the State of Utah of its right to initiate enforcement action, including civil penalties, against OOTW in the event of future non-compliance with this CONSENT ORDER, with the Act, and with the Rules; nor shall the State of Utah be precluded in any way from taking appropriate action should such a situation arise again at the OOTW facility. However, entry into this CONSENT ORDER shall relieve OOTW of all liability for violations which did arise or could have arisen with respect to the allegations contained in NOV/CO No. 2202016.

EFFECTIVE DATE

17. This CONSENT ORDER shall become effective upon the date of execution by the Director.

PUBLIC PARTICIPATION

18. This CONSENT ORDER shall be subject to public notice and comment for a period of at least 30 days (“Comment Period”) in accordance with Utah Admin. Code R315-124-34. The Director reserves the right to withdraw or withhold its consent if any comment received during the Comment Period disclose facts or consideration indicating the CONSENT ORDER is inappropriate, improper, or inadequate.

SIGNATORY

19. The undersigned representative of OOTW certifies he is authorized to enter into this CONSENT ORDER and to execute and legally bind OOTW.

Pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code § 19-6-101, *et seq.*, in the *Matter of Out of the Woods Custom Cabinetry, Inc. Notice of Violation and Compliance Order No. 2202016*, the parties hereto mutually agree and consent to STIPULATION AND CONSENT ORDER 2205042 as evidenced below:

OUT OF THE WOODS CUSTOM
CABINetry, INC.

THE STATE OF UTAH
DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL

Thomas Tige Rhoades, President/CEO

Douglas J. Hansen, Director

Date: _____

Date: _____