

OFFICE OF ADJUDICATIONS

IN THE MATTER OF : **APPLICATION NO. 200103104**

CIRCLE OF LIFE, LLC. : **JANUARY 21, 2003**

PROPOSED FINAL DECISION

I

SUMMARY

Circle of Life, LLC (the applicant) filed an application with the Department of Environmental Protection (DEP) Bureau of Waste Management for permits to construct and operate a solid waste volume reduction plant¹ (facility) at 158R Middletown Avenue, New Haven. The application was filed pursuant to General Statutes §22a-208a and §§22a-209-4 and 22a-209-10 of the Regulations of Connecticut State Agencies, which regulate the construction, alteration and operation of solid waste facilities.

On October 2, 2001, the Commissioner issued a Notice of Tentative Determination to approve the application. The DEP Waste Engineering and Enforcement Division (staff) reviewed the application and supports the issuance of a permit to construct and, in lieu of issuing a permit to operate, recommends issuing a temporary permit to operate. The temporary permit to operate will allow the applicant to start-up and operate the facility for a period of sixty days to conduct performance tests. If the Commissioner determines that the temporary operation of the facility complies with the permit, a permanent permit to operate will be issued.

¹ “Volume reduction plant” means any location or structure, whether located on land or water, where more than two thousand pounds per hour of solid waste generated elsewhere may be reduced in volume, including but not limited to, resources recovery facilities and other incinerators, recycling facilities, pulverizers, compactors, shredders, balers and composting facilities. General Statutes §22a-207 (5). (Ex. APP-1.)

The parties to this proceeding are the applicant, staff and the intervenor Downing Street Blockwatch. A site visit was conducted on January 15, 2002. The Commissioner received a petition signed by more than twenty-five people and hearings were held on June 24 and July 2, 9, 16 and 23, 2002. General Statutes §22-208a (e). The record on these proceedings closed on July 23, 2002, and the parties filed post-hearing and reply briefs by October 3, 2002.

Upon review of the relevant facts contained in the record, evidence and applicable law in this matter, I find that the application, if conducted in accordance with the terms and conditions of the draft permits as modified herein, is consistent with all applicable statutory and regulatory provisions and will ensure that the public's health, safety and welfare will be safeguarded and enhanced, and the natural resources of the State will be conserved, improved and protected.

I therefore recommend that a permit to construct and a temporary permit to operate be issued in accordance with the terms and conditions contained in the attached draft permits (Attachments A and C) with modifications outlined herein. Should the results of the performance tests show the facility will operate in compliance with the terms and conditions of the temporary permit to operate, I recommend issuing the permit to operate in accordance with the terms and conditions contained in the attached draft permit (Attachment B).

II

FINDINGS OF FACT

A

The Applicant

1. The applicant is a limited liability company owned and operated by Felix Andrew Anastasio, Sr. and Barbara Anastasio as equal partners. The Anastasios also own and operate other businesses including St. Joseph's Wood Products, LLC, a wood recycling facility, and NICESA, LLC, a real estate development company. (Ex. APP-1, Attachment D, *Background Information*, Attachment G, *Business Information*.)

2. In September 1998, the applicant entered into a commercial lease agreement with NICESA, LLC to lease approximately three acres (site) at the 280-acre Cedar Hill Rail Yard (rail yard) located in the Towns of New Haven and North Haven. CSX Railroad, which leases a portion of the property to NICESA, LLC, owns the active rail yard, which operates 24 hours per day seven days a week serving the New Haven-Boston and New Haven-Hartford corridors. (Exs. APP-1, Attachment G, *Business Information*, APP-6, 65; exs. DEP-22, 25; test. M. Holland, 07-02-02, pp. 37, 147-148; test. C. Atkins, 07-16-02, p. 462.)

B

The Intervenor

3. Downing Street Blockwatch (DSB) is a group of neighbors who reside on Downing Street, which is located in the Fair Haven area of New Haven. On January 14, 2002, DSB filed a Notice of Intervention, Filing of Verified Pleading and Request for Notice of Meetings (petition) that was granted on January 16, 2002. General Statutes §22a-19 (a). The

petition alleges that the proposed facility is reasonably likely to have the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state. DSB is opposed to the application and claims that construction and operation of the facility will: adversely affect the environment and natural resources by introducing contaminants into the air and water; degrade or destroy essential wildlife, finfish and shellfish; degrade visual quality and significantly alter the natural features of vistas and view points; and degrade natural and existing drainage patterns.² (Test. P. Rubano, 06-24-02, pp. 33-40)

4. DSB contends that the application is incomplete, the facility plans are improperly certified, and the application should be denied. In addition, DSB proposed various alternatives to the proposed regulated activity³. (Test. P. Rubano, 07-02-02, pp. 24, 131-133, 07-23-02, 787-788.)

C

The Application

5. On June 7, 2000, the applicant submitted an application for permits to construct and operate the proposed facility. Supporting and supplementary documents submitted with the application included: an Executive Summary; an Applicant Compliance Information Form; a United States Geological Survey (USGS) Map; Background Information; a Statement of

² This petition and ruling granting intervention are public documents and are included in the files of the Office of Adjudications.

³ DSB's post hearing briefs include proposed alternatives unsupported by facts contained in the record. The brief and reply brief are public documents and are included in the files of the Office of Adjudications.

Consistency with Solid Waste Management Plan; Business Information⁴; a Facility Plan⁵; a Coastal Consistency Review Form; a Field Survey; a Certification Regarding Activities Previously Licensed by the DEP; and an Environmental Equity Plan. (Exs. APP-1, 2, 4, 5, 7, 10, 75, 80; test. C. Atkins, 07-16-02, p. 465.)

6. Clarence Blair Associates, Inc. (CBA), a Connecticut engineering firm, prepared the base facility plans. Robert Mansfield, a professional engineer licensed to practice in the State of Connecticut and employee of CBA, reviewed, signed and stamped the engineering, architectural and site drawings. (Exs. APP-1, 6, 75; test. M. Holland, 07-02-02, pp. 31-32, 133-135; test. R. Mansfield, 07-09-02, pp. 259-264.)

7. On May 29, 2000, the applicant published notice of the application in the New Haven Register in accordance with a form provided by staff. The applicant also sent a certified letter dated June 12, 2000 to the Mayor of the City of New Haven. At the request of staff, the applicant erected a sign at the entrance of the site on July 17, 2000 notifying the public and abutting landowners of the pending permit application and contact information. General Statutes §22a-6l. The posted sign measured at least six feet by four feet, and contained information in a form prescribed by staff. The applicant also sent certified letters to public and municipal officials and local environmental advisory committees notifying them of the application. (Exs. APP-11, 14, 32, 33, 34; exs. DEP-2, 11, 25; test. C. Atkins, 07-16-02, pp. 464-465.)

⁴ Business information included: management personnel profiles; organizational chart; business holdings; opinion of a certified principal accountant; financial statements and bonding capacity; land lease documents; disposal facility agreements; and planning and zoning approval. (Ex. APP-1, *Attachment G*, APP-70.)

⁵ "Facility plan" means the engineering studies and proposals to build, establish, alter, operate, monitor and close a solid waste facility, required by Section 22a-209-4 (b) (2) of the Regulations of Connecticut State Agencies. Regs., Conn. State Agencies, Section 22a-209-1. The applicant submitted: engineering drawings; site plans; architectural and mechanical drawings; cross sections and specification drawings; and an Operation and Management Plan (O&M Plan). (Exs. APP-1, *Attachment H*, APP-3, 6, 29, 75.)

8. To facilitate public participation in the application process, the applicant coordinated and worked with staff and prepared an environmental equity plan, which outlined community outreach activities the applicant had conducted and planned to undertake. On September 7, 2000, the applicant held an informational meeting with Alderwoman Shirley Ellis-West and on September 11, 2002, gave her a tour of the site. A community informational meeting was held in New Haven on February 22, 2001, and notices of the meeting were mailed to: members of the New Haven Environmental Justice Advisory Board; members of the New Haven Environmental Advisory Committee; the Executive Director and Deputy Director of the Livable City Initiative; Alderwoman Ellis-West and alderpersons for two adjacent wards; and three representatives from the DEP. (Exs. APP-2, 4, 4A, 35, 39-42, 64, 72; ex. DEP-25; test. C. Atkins, 07-16-02, pp. 464-465.)

9. Staff determined and concluded that the applicant's environmental equity plan and public informational outreach activities were responsive and consistent with the DEP's environmental equity policy and guidelines. (Exs. APP-2, 4, 36, 37, 38, 66; test. C. Atkins, 07-16-02, pp. 465, 483-484.)

10. When reviewing permit applications, staff considers the compliance history of an applicant in determining whether, or under what conditions, to issue a permit. Staff reviewed the compliance history of the applicant to ascertain if the applicant repeatedly violated pertinent statutes, regulations, permit terms or conditions at any solid waste facilities. Staff's review revealed that a Notice of Violation was issued to the applicant on or about April 22, 1997 for recycling wood waste without a permit, and that the matter was rectified on March 27, 1998. (Exs. APP-1, Attachment B, *Applicant Compliance Information*, APP-52, 61, 66; exs. DEP-3, 25; test. C. Atkins, 07-16-02, p. 463.)

11. Staff reviewed the application and supplementary documents submitted by the applicant and concluded that the application was sufficient and consistent with all applicable policies, regulations and statutes. Having found the application complete, staff prepared draft permits to construct and operate dated October 1, 2001, which included specific terms and conditions and issued the Notice of Tentative Determination. Staff subsequently revised the draft permits to construct and operate and prepared a draft temporary permit to operate. The temporary permit to operate will authorize operation of the facility for purposes of start-up, equipment shakedown and performance testing. (Exs. APP-1, 5, 6, 46, 51, 75; exs. DEP-4, 9, 12, 15, 16, 26-28; test. C. Atkins, 07-16-02, pp. 463-466.)

12. The New Haven City Plan Department (NHPD) held a public hearing on the application on October 15, 2000, and issued approval of a Special Permit on October 18, 2000. NHPD concluded that the facility will have no adverse impacts on water quality and coastal resources, and is consistent with the policies and goals of the *Coastal Management Act (CMA)*. General Statutes §§22a-90 through 22a-112. NHPD also found that dust, odor and noise levels from the facility will be insignificant and that the rail yard would be a suitable location. (Exs. APP-23, 70.)

13. The Quinnipiac River Watershed Association (QRWA) is an organization committed to preserving and restoring the Quinnipiac River. Every year volunteer members remove approximately 42,000 pounds of trash and bulky waste illegally dumped into the river. QRWA supports issuance of the permits and found that the facility would mitigate adverse impacts to natural resources of the state and remove waste in a legally acceptable manner. QRWA found the rail yard to be an acceptable location for the facility. (Test. M. Mushinsky, 06-24-02, pp. 108-112, 07-02-02, p. 172.)

D

The Site

14. The site is located off of Middletown Avenue and is approximately three quarters of a mile west of Interstate 91 (I-91) at interchange eight (exit 8) and directly south of the New Haven/North Haven town line. The site is situated in a heavy industrial zone and is part of a 27.50-acre parcel of the rail yard known as the common area that contains railroad tracks subject to overriding track rights, utilities and right of passage easements. Other industrial businesses contained in the common area adjacent to the site are steel and lumber distribution and relocating facilities and a wood recycling facility. Primary access and egress to the site is by an existing 1751-foot two lane unimproved gravel road (access road) from Middletown Avenue. Middletown Avenue is a commercial street with established truck traffic, including uses by neighboring facilities. (Exs. APP-1, 6, 70, 75, 76; test. M. Holland, 07-02-02, pp. 38-43, 89, 97-98, 105.)

15. The site is adjacent to the former New Haven landfill to the east, rail yard property to the north and south, and to the west by Amtrak railroad line berms (embankments), salt marsh and the Quinnipiac and Little rivers. Various areas of estuarine embayments and associated freshwater and tidal wetlands surround the rail yard. No activity is proposed within twenty-five feet of wetlands and there is no proposal to fill any of the adjacent wetland areas. The westernmost embankment separates the Quinnipiac River from the site. The landfill has a vertical height of 140 feet and the westernmost embankment has a vertical height of twenty-two feet above existing elevation. The landfill and embankments will act as natural barriers and will visually shield the site from Middletown Avenue and I-91. Quinnipiac River shellfish concentration areas are located approximately one mile south of the site. Groundwater at the

site is classified GB⁶ and the site's existing stormwater management system discharges untreated stormwater runoff directly into the Quinnipiac River. The site is located in Flood Zone C⁷ and will be serviced by a main water line that is connected to various hydrants on the property. (Exs. APP-1, 6, 24, 70, 75, 76; test. M. Holland, 07-02-02, pp. 38, 88-89, 97-98, 105; test. D. Lowry, 07-09-02, pp. 299-300; test. J. Reczek, 07-16-02, pp. 408-409.)

16. Historically, certain parcels of property in the rail yard ancillary to the site have been contaminated with hazardous wastes and are subject to past remediation orders. DSB alleges soils at the site are polluted and require remediation and that construction activities will disturb contaminants and cause unreasonable pollution. (Exs. DSB-1, 2, 5, 38, 39; test. M. Holland, 07-02-02, 151-154; test. P. Rubano, 07-23-02, pp. 536-537, 787-788.)

17. Residents of Fair Haven who testified as sworn speakers at the hearing contend that the proposed facility will increase diesel air emissions from truck traffic and cause air pollution and adverse human health impacts on children and the elderly in the community. The Fair Haven neighborhood does not abut the site and is located approximately one mile to the northeast. (Exs. APP-1, Attachment C, *USGS Map*, APP-6, 64, 69; test. sworn speakers, 06-24-02.)

E

The Proposed Facility

18. The facility will receive and consolidate construction and demolition (C&D) debris, utility poles, railroad ties and land clearing debris (collectively "waste") and transport the

⁶ Pursuant to the Connecticut Water Quality Standards Criteria, GB classification indicates groundwater within a historically highly urbanized area or an area of intense industrial activity where public water supply is available. The groundwater may not be suitable for human consumption without treatment, due to waste discharges, spills or leaks of chemicals or land use impacts. (Ex. APP-81; test. J. Reczek, 07-16-02, pp. 405-406)

⁷ Designated areas of minimal flooding pursuant to Flood Insurance Rate Maps #090084-003 C, dated May 2, 1983 and June 16, 1992. (Ex. APP-65)

waste out-of-state by rail cars to mid-western landfills. The facility will accept waste from pre-approved authorized source generators and, except for emergencies, all inbound trucks delivering waste to the facility will be pre-scheduled and there will be no drive up service. The majority of waste will come from New Haven area sources. (Exs. APP-1, Attachment H, *Operation and Management Plan*, APP-65, 70; test. M. Holland, 07-02-02, pp. 115-116.)

19. Each year two million tons of bulky wastes and related wastes are generated in the state and over 740,000 tons is C&D debris. Many of the state's bulky waste landfills have been filled to capacity and it estimated that within a few short years the state will be facing a crisis in bulky waste because of severely limited disposal sites. The proposed facility will remove bulky waste from the state and transport it by rail to out-of-state landfills. This will extend the useful life of limited landfill space and is consistent with the goals and policies of the State's Solid Waste Management Plan⁸ (SWMP) . (Ex. APP-1, Attachment E, *Statement of Consistency With Solid Waste Management Plan*, App-17, 19, 51; exs. DEP-5, 25; test. M. Holland, 07-02-02, pp. 83-87.)

20. The facility will consist of a circular shaped segmented building eighty-eight feet in diameter and thirty-nine feet in height; a tipping plaza; a scale plaza; paved roadways; a rail track; and rail bed. (A full building section is attached hereto as Attachment D). (APP-1; Attachment A, *Executive Summary*.)

21. The column free building, built on an eight-inch concrete slab, will consist of interlocking steel sheet pilings, a retaining wall and aluminum frames covered with a waterproof tan fabric. With the exception of the sub-grade portion of the sheet pilings and improvements, the elevation of the building and slab will be above existing grade, which is above flood level.

⁸ The goals and policies set forth in the (SWMP) promote source reduction, recycling, composting and energy recovery over land disposal as established in Connecticut General Statutes Section 22a-228 (b). (Ex. APP-17.)

The building will be equipped with: a sprinkler system; fire extinguishers; fire alarm pull system; smoke detectors; an infrared red heat hot load detection system; video monitors; lighting; and a dust suppression system. The facility will be equipped with a full-coverage security camera system, access gates and fencing. (Exs. APP-1, Attachment H, *Operation and Management Plan*, APP-6, 65; test. M. Holland, 07-02-02, pp. 51-55, 57, 59, 72.)

22. In the center of the building's interior, there is a concrete pedestal eighteen feet in height and twenty-two feet in diameter. An excavator prime loader with 360° rotational capacity, exhaust stack and six cubic yard crushing grapple will be mounted and bolted on top of the pedestal. In order to operate the excavator, the applicant may have to file an application with the DEP Bureau of Air Management and obtain a new source air permit to emit emissions out the exhaust stack. The loader cab will be equipped with an extended service walkway with railings on three sides, a heater, air conditioner, defroster and filter ventilation system and will be ergonomically designed for operator use. (Exs. APP-1, Attachment H, *Operation and Management Plan*, APP-6.)

23. Surrounding the pedestal will be an above ground sealed receiving pit with a steel-reinforced floor and tapered fifteen-foot walls contoured to match the digging sweep of the grapple. The waste capacity of the pit will be 1000 tons. (Exs. APP-1, Attachment H, *Operation and Management Plan*, APP-6; test. M. Holland, 07-02-02, 53, 57-60.)

24. Four receiving bays, each equipped with sliding doors, safety stops and flexi-door plastic flaps will be axially spaced from the building's centerline. Receiving bay doors will be closed when the facility is not in use. (Exs. APP-1, 6; test. M. Holland, 07-02-02, pp. 53, 59, 61, 77.)

25. The tipping plaza will be built on an existing raised concrete pad and will occupy the area behind the building's sheet piling retaining wall and westernmost embankment. This area will be back filled with gravel to a depth of twelve feet above existing base flood elevation and paved with bituminous concrete. Trucks will enter and exit the plaza by one of two driveway ramps. The tipping plaza will allow trucks to safely swing, maneuver, turn and back into receiving bays. (Exs. APP-1, 6, 25; test. M. Holland, 07-02-02, pp. 44-50, 77-78.)

26. The applicant will install a new 1180-foot rail track directly west of two existing rail tracks. The new rail track will intersect the lower level of the building's easternmost chord and will be equipped with a 170-ton rail scale and large format LED readout screen and will allow the loading operator to monitor the weight capacity of each rail car. Rail car entrance and exit doors will be equipped with a flexible fabric curtain. An interior sheet piling partition wall will separate the pit and rail track. (Exs. APP-1, Attachment H, *Operation and Management Plan*, APP-6; test. M. Holland, 07-02-02, pp. 48, 52, 66.)

27. The scale plaza will be constructed on a concrete island and will consist of a prefabricated scale house/security building, security gates and inbound and outbound pass lanes, each equipped with certified electronic truck scales and a radioactive material detection system. (Exs. APP-1, Attachment H, *Operation and Management Plan*, APP-6; test. M. Holland, 07-02-02, pp. 42-43, 70.)

28. The site will have newly-aligned gravel roads widened to thirty feet and paved to minimize dust, mobilize soils, and reduce the pooling and permeation of stormwater. An emergency truck turnout area located between the scale plaza and the building will be used to impound trucks hauling unacceptable waste, handle truck emergencies and fight fires in hot

loads. (Exs. APP-1, 6, 70; test. M. Holland, 07-02-02, pp. 40-41, 47-49, 127-129, 07-09-02, pp. 245-246; test. C. Pollack, 07-23-02, pp. 587-588.)

29. The applicant will lease new or reconditioned rail cars modified for hauling waste. A rail car is approximately forty-seven feet long, eight feet wide, eight feet high, and has a load weight capacity of eighty tons. Each rail car can hold approximately four truckloads of material and will be equipped with an identifier tag to electronically monitor its location at all times. (Exs. APP-1, Attachment H, *Operation and Management Plan*, APP-64; test. M. Holland, 07-02-02, pp. 64, 72.)

30. An eight-foot high chain link fence topped with barbed wire surrounding the facility will secure against off-hours non-permitted dumping, prevent any stray pieces of litter from escaping the site, and control vectors. Entrance, exit, directional, speed limit and safety signs posted at key locations and pavement markings will direct and control the flow of truck traffic on site. A sign posted at the main gate will specify the name of the facility, the hours of operations and include a statement that loads will be accepted by appointment only. Security officers will manage site access gates, conduct routine patrols to inspect the property, monitor electronic security and surveillance and protect against fire, theft, non-permitted dumping, vandalism and other illegal activity. (Exs. APP-1, Attachment H, *Operation and Management Plan*, APP-70.)

31. The applicant will obtain a stormwater discharge permit to modify the design of the existing stormwater drainage system, which currently discharges untreated stormwater runoff directly into the Quinnipiac River, and install a Vortech unit⁹ (primary filtration system). The modified drainage system will collect and divert stormwater runoff from

impervious areas into a piping system and convey it into the primary filtration system where treated water will discharge into a riprap area and then into a vegetative phragmite¹⁰ swale, which will act as a secondary filtration system, and ultimately into wetlands. The primary filtration system will remove most solids and floatable pollutants from stormwater runoff and the secondary filtration system will provide biological treatment to absorb dissolved pollutants. (Exs. APP-1, 75; DEP-22; test, M. Holland, 07-02-02, p. 97; test. D. Lowry, 07-09-02, pp. 297-298, 301-305; test. C. Atkins, 07-16-02, pp. 469-470; test. D. Kozak, 07-16-02, p. 520.)

32. The applicant retained RECON Engineers, P.C. (RECON) to investigate and assess subsurface soil conditions at the site. RECON conducted field observations and installed five soil borings in staked areas where site excavation will take place and collected thirteen soil samples. Reported test results indicated that concentrations of volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), and toxic metals detected were significantly below the Connecticut Remediation Standard Regulations¹¹ (CRSRs). Petroleum

⁹ A mechanical filtration system that will separate pollutants (solids, oil, particles, certain hydrocarbons and diesel by-products) contained in stormwater runoff. (Ex. APP-75; test. M. Holland, 07-02-02, pp. 93-94; test. D. Kozak, 07-16-02, p. 518.)

¹⁰ Invasive species of tall reed grass growing seven to twelve feet in height. (Test. D. Lowry, 07-09-02, p. 304.)

¹¹ General Statutes §22a-133k provides that the commissioner "shall adopt regulations . . . setting forth standards for the remediation of environmental pollution at hazardous waste disposal sites and other properties which have been subject to a spill . . . which regulations shall fully protect health, public welfare and the environment." Pursuant to this authority, the commissioner enacted what are known as the remediation standard regulations set out in §§ 22a-133k-1 through 22a-133k-3, which set forth standards or concentration levels for the remediation of polluted soil and polluted groundwater. (Ex. APP-81; test. J. Reczek, 07-16-02, p. 385.)

hydrocarbons and polychlorinated biphenyls were undetected. (Ex. APP-81; test. J. Reczek, 07-16-02, pp. 379-388, 398-402.)

33. Jan Reczek, a Licensed Environmental Professional (LEP) engineer and expert witness for the applicant, concluded that because the levels detected for VOCs, SVOCs and toxic metals were below the CRSRs, no soil remediation would be necessary at the site. (Exs. APP-25, 81; exs. DSB-1, 2; test. M. Holland, 07-02-01, pp. 149-153; test. J. Reczek, 07-16-02, pp. 375-378, 388.)

34. Christina Pollack, a Certified Hazardous Materials Manager and expert witness for the DSB, reviewed RECON's report and concluded that the site was not adequately characterized and recommended further site investigation and soil testing. She did not conduct soil sampling at the site and had no empirical data to conclude that the proposed facility will cause unreasonable pollution. (Ex. APP-81; test. C. Pollack, 07-23-02, pp. 562-566, 585-586, 599-609.)

35. In response to the concerns of DSB and sworn speakers who testified about potentially polluted soils at the site, staff recommended adding an additional condition in the permit to construct that will require the applicant to appropriately characterize, manage and properly dispose of any polluted soils discovered during construction of the facility in accordance with the CRSRs. (Ex. DEP-23; test. M. Holland, 07-02-02, pp. 125-126; test. C. Atkins, 07-16-02, p. 468.)

F

Operations

36. Prior to accepting waste, the applicant will post a closure surety bond with the DEP to cover third-party costs for the handling, removal and proper disposal of the maximum amount of unprocessed/processed solid waste and residue capable of being stored at the site. (Ex. APP-1, Attachment G, *Business Information*; test. M. Holland, 07-02-02, pp. 83-84, 123-124; test. C. Atkins, 07-16-02, pp. 467-468, 491-492.)

37. The facility will be permitted to accept a maximum capacity of 2378 tons per day of unprocessed waste. The facility will operate from 6:00 a.m. Monday through 12:00 a.m. Sunday and will not operate from 12:00 a.m. Sunday to 6:00 a.m. on Monday. Daily operations include receiving waste during a twenty-two hour period and shutting down for approximately two hours to maintain equipment and perform cleanup activities. Prior to delivering waste, generators must complete, certify and forward to the applicant a Generator Waste Profile form identifying and describing the type of waste contained in the shipment. (Ex. APP-1, Attachment H, *Operation and Management Plan*; exs. DEP-25, 26, 28; test. M. Holland, 07-02-02, pp. 117-119; test. C. Atkins, 07-16-02, pp. 467-468.)

38. Recyclable and non permitted special wastes¹², including mushroom substrate, paper sludge, glass aggregate and biomedical waste, will not be accepted, processed, treated, stored and transported at the facility or disposed of off-site. Permitted waste will be received, processed, shipped and recorded on a weight basis. Unloading, consolidating and loading

¹² Special wastes are defined as water treatment, sewage treatment or industrial sludge, liquids, solids and contained gases, coal fly ash, slag, sludge, tires, sludge ash, casting sand, contaminated soils, contaminated dredge spoils, tires and asbestos containing waste. See Regs., Conn. State Agencies §22a-209-1 (Ex. APP-1.)

operations will take place inside the enclosed building. (Exs. APP-1, Attachment H, *Operation and Management Plan*, APP-8.)

39. I-91, exit 8 onto Middletown Avenue will serve as the primary route for truck traffic to and from the facility. This route is not located in any residential neighborhoods, including Fair Haven. Inbound trucks will be covered with either with a solid cover or tarpaulin and remain covered until within ten feet of the receiving bay. The trucks will be equipped with either a push out or shuffle floor system designed to eject the load out versus raising the body of the truck to tip the load. (Exs. APP-1, 6, 70, 76; test. M. Holland, 07-02-02, pp. 42-46, 61-62, 119; test. R. Bass, 07-09-02, pp. 283-284.)

40. Traffic to and from the facility will travel on Middletown Avenue onto the access road to the scale plaza and the tipping plaza. The electronic scale at the scale house will record inbound truck identification, gross weight and outgoing tare weight. The scale house operator will electronically screen and inspect inbound trucks for radioactive material, hot loads and non-acceptable waste. Drivers will be assigned a receiving bay and a driveway ramp to enter and exit the tipping plaza. Inbound trucks will remain outside the building during unloading, which will take approximately fifteen minutes. (Exs. APP-1, Attachment H, *Operation and Management Plan*, APP-6; test. M. Holland, 07-02-02, pp. 48-49, 77, 119.)

41. Receiving bay doors will be assigned on an alternate basis and will be rotated continuously. During operations two receiving bay doors will open and opposite doors will be closed to prevent wind from blowing through the building and dust and debris from escaping outdoors. (Exs. APP-1, 6; test. M. Holland, 07-02-02, pp. 49-50, 59.)

42. The excavator operator will visually screen for unacceptable waste in the pit and operate the excavator to clear space beneath each receiving bay door, stack, sort, crush, snap or

smash bulky waste, pick it up, swing and load it into an outbound rail car. (Ex. APP-1, Attachment H, *Operation and Management Plan*; test. M. Holland, 07-02-02, pp. 63, 70.)

43. The rail car scale will record the rail car placard identification and tare weight. An electronic bill of lading will be produced for each outbound rail car. Loaded rail cars will be covered with watertight tarpaulins before leaving the site and will not be permitted to be stored inside the building after hours. (Ex. APP-1, Attachment H, *Operation and Management Plan*; test. C. Atkins, 07-16-02, pp. 495-496.)

44. Storage of waste at the facility will be confined to the pit and limited to no more than 1000 tons of unloaded waste and 2400 tons of waste reloaded into no more than thirty rail cars. Outdoor storage of loaded and securely covered rail cars will not exceed forty-eight hours. (Ex. APP-1; exs. DEP-25, 26, 28; test. M. Holland, 07-02-02, pp. 61-62, 65.)

45. Trucks will be restricted to paved roads and at the end of each day the applicant will remove litter and mechanically sweep the pit, rail scale, tipping plaza, driveway ramps and scale plaza. The lessor, NICESA, LLC, will be responsible for the maintenance of utilities, roadway lighting, waterline extensions, rail bed improvements, sweeping of roads and snow removal. (Ex. APP-1, Attachment H, *Operation and Management Plan*; test. M. Holland, 07-02-02, pp. 59, 108-109.)

46. Indoor dust produced during unloading, consolidation and loading will be contained inside the building and settle in the pit. If the level of dust opacity is exceeded, the automatic dust suppression system will spray a fine mist of water over the pit and knock down dust particles. The excavator and floor operators will also be able to manually trigger the system. (Ex. APP-1, Attachment H, *Operation and Management Plan*; test. M. Holland, 07-02-02, pp. 109-111.)

47. The applicant will conduct quarterly indoor air sampling and test for airborne lead and asbestos levels and monitor employee exposure. A Health and Safety Program developed by the applicant sets forth detailed health, safety and emergency response procedures for accidents and fire events and outlines coordination activities with local medical, police and fire protection agencies and the DEP. (Ex. APP-1, Attachment H, *Operation and Management Plan*; test. M. Holland, 07-02-02, pp. 121-122; test. C. Atkins, 07-16-02, p. 466.)

48. Unlike municipal solid waste, C&D debris is low in moisture content and will not produce unpleasant and objectionable odors and is not an attractive food source for vectors, such as rodents or birds. At the end of each day any remaining waste in the pit will be removed and loaded into the last rail car and the pit will be cleaned. (Exs. APP-1, Attachment H, *Operation and Management Plan*, APP-44.)

49. A certified operator¹³ will be present at all times during operation and employees will be trained in fire prevention and response procedures, first aid and how to identify non-permitted waste and safety handling procedures. Inbound trucks discovered hauling or unloading non-acceptable waste will be precluded from leaving the site and the applicant will notify the DEP. Unacceptable waste inadvertently accepted and subsequently discovered in the pit will be promptly sorted, separated, isolated and temporarily stored in an emergency container and disposed of at an authorized disposal facility. (Ex. APP-1, Attachment H, *Operation and Management Plan*; ex. DEP-26; test. M. Holland, 07-02-02, pp.114-116, 07-09-02, p. 232.)

50. The applicant will conduct operational and facility inspections, maintain daily records and prepare monthly reports. An independent third party licensed professional engineer

¹³ Certified operator means the solid waste facility operator or an employee of the operator who is present on site and oversees or carries out the daily operation of the facility, and whose qualifications are approved in accordance with §22a-209-6 of the Regulations of Connecticut State Agencies.

will conduct quarterly compliance audits and submit reports to staff. The reports shall identify any permit violations, describe corrective actions taken, and include documents and a certificate demonstrating compliance. Should the applicant fail to correct any permit violations within a prescribed time, the applicant will be restricted from accepting waste. (Ex. APP-1, *Attachment H*, Facility Plan; ex. DEP-27; test. M. Holland, 07-02-02, pp. 119-121; test. C. Atkins, 07-16-02, pp. 467, 494.)

51. An emergency episode standby plan and plant anomaly matrix identifies potential emergency situations and coordination activities with local agencies and the DEP. In the event of an emergency, the applicant, using a computerized tracking system, may push back pre-scheduled truck deliveries. Staff has also recommended adding a condition in the temporary permit to operate requiring the applicant to establish a telephone number so that members of the public may contact the applicant with questions and complaints. (Exs. APP-1, Attachment H, *Operation and Management Plan*, APP-5a; test. M. Holland, 07-02-02, pp. 43-46, 71, 07-09-02, pp. 237-238; test. C. Atkins, 07-16-02, p. 479.)

52. The excavator will be equipped with a NIOSH/OSHA compliant muffler and a Mine-X in-line catalytic converter that will lower its operating decibel rating and decrease mechanical noise. Unloading, consolidation and loading noise will be contained inside the enclosed building and the applicant will keep as many doors closed during operations as practical. (Ex. APP-1, Attachment H, *Operation and Management Plan*.)

53. The applicant prepared and submitted a traffic study and retained a traffic engineer who calculated daily and peak hour truck traffic impacts on routes to and from the proposed facility over the course of a twenty-four hour period. Using Connecticut Department of Transportation cartographic and vehicular traffic volume data for Middletown Avenue and

exit-8 ramps at I-91, the engineer found that at maximum processing capacity there will be a 2 percent increase in daily traffic and less than a 0.5 percent increase during peak hours. The engineer concluded that truck traffic impacts on roadways surrounding the facility will be insignificant and almost immeasurable and traffic changes at various intersections and ramps approaching the site will remain unchanged. (Exs. APP-1, Attachment H, *Operation and Management Plan*, APP- 25, 28, 29, 40, 76; test. R. Bass, 07-09-02, pp. 276-279, 282.)

54. To control the number of inbound trucks scheduled to arrive at the facility and prevent the concentration of trucks traveling during peak hours, a condition in the permit to operate will restrict the applicant to scheduling no more than four inbound trucks per hour, in no less than fifteen-minute intervals and to limit the maximum number of trucks queuing to fifteen. The length and distance of the access road will allow trucks to sufficiently queue on site and prevent the interference and blocking of traffic on Middletown Avenue. (Exs. DEP-16, 25; test. C. Atkins, 07-16-02, pp. 471-473, 484.)

55. According to Dr. Mark Mitchell, an expert witness for DSB, diesel exhaust emissions from inbound and outbound trucks will significantly increase the levels of air pollution in New Haven and cause increased health risks and impacts to children, senior citizens, community residents and employees who work at the facility. Dr. Mitchell did not perform any modeling calculations and analyses and did not have any empirical data to support his opinion. (Test. M. Mitchell, 07-23-01, pp. 647-648, 658.)

56. Mitchell Wurmbrand, a certified meteorologist and expert witness for the applicant, performed air quality impact analyses and calculated the increase in diesel air emissions, including particulate matter, from inbound and outbound trucks. Using EPA heavy-duty diesel truck air emission data factors, he concluded that at maximum processing capacity,

local air emissions of non-methane hydrocarbons, carbon monoxide and nitrogen oxides will be minor and air emissions from the non-methane hydrocarbon fraction will be negligible and will not degrade local air quality. He also found that particulate emissions will be the lowest level of any of the criteria pollutants prevalent in diesel exhaust. Mr. Wurmbrand also concluded that the transport of waste by rail to out-of-state landfills will reduce: the number of trucks traveling to and from in and out-of-state disposal sites; fuel consumption; truck traffic and road wear; and regional air emissions. (Exs. APP-1, 83, 85; test. M. Wurmbrand, 07-16-02, pp. 436-439, 440-451.)

57. The applicant's architect considered designing a square building and concluded that a circular building will promote cleanliness and operate more efficiently than a square building because it will: eliminate truck queuing on the plaza; prevent the stockpiling of waste in corners; preclude the need for trucks to enter the building to unload; and avoid the tracking of waste on site by trucks. (Exs. APP-1, 6; test. M. Holland, 07-02-02, pp. 61, 73-74, 77-78; 107-108.)

58. The applicant considered locating the building in two other areas on the site and concluded they were not feasible because they were in closer proximity to the Quinnipiac River and would involve additional site excavation and development. At the present proposed location of the building, the westernmost embankment and landfill will act as buffers and will visually shield the building from Middletown Avenue and I-91. In addition, the existing paved area where the tipping plaza is located will be reutilized, minimizing site excavation. (Exs. APP-1, 64; test. M. Holland, 07-02-02, pp. 57, 72-73, 107-108.)

G

Temporary Permit To Operate

59. DSB and sworn speakers assert that the facility will have the largest design capacity level of any facility currently permitted in the state and allege that it will not be able to safely operate at the 2378 tons per day maximum processing capacity in accordance with the terms and conditions contained in the permit to operate. Staff addressed this concern, and proposed that as an alternative to issuing a permit to operate, a temporary permit to operate for period of sixty days be issued. Regs., Conn. State Agencies 22a-209 (4) (C) (4). (Ex. APP-1; exs. DEP-4; 5, 15, 16, 22, 25-28; test. C. Atkins, 07-16-02, pp. 470, 473-476, 484-486.)

60. The temporary permit to operate prepared by staff will require the applicant to retain an independent third party engineer licensed to practice in the state to conduct performance tests and submit a certified report to staff. The testing protocol will demonstrate the facility's ability to comply with the operational parameters that include truck traffic, queuing, processing, storage, material handling, dust emissions, noise levels and maximum processing capacity. Based on the results of the performance tests, staff may recommend that the Commissioner modify the draft permit to operate to decrease the maximum processing capacity or impose additional conditions. The applicant has agreed to conduct performance tests. (Ex. APP-1; exs. DEP-4; 5, 15, 16, 22, 25-28; test. C. Atkins, 07-16-02, pp. 470, 473-476, 484-486.)

H

Coastal Resources

61. The proposed facility will be located in a coastal boundary and flood zone. As part of the application review process, the DEP Office of Long Island Sound Programs (OLISP)

conducted a coastal consistency review of the application and found the application to be consistent with the goals and policies of the CMA. (Ex. APP-1; ex. DEP-22; test. D. Kozak, 07-16-02, pp. 508-509, 515.)

62. OLISP and Dennis Lowry, a wetland ecologist and biologist and expert witness for the applicant, concluded that the proposed modifications to the existing stormwater management system would be an improvement over the existing system and adequately mitigate potential adverse impacts to the Little River, Quinnipiac River and associated wetlands and significantly improve water quality runoff to adjacent coastal resources. OLISP also found that shellfish concentrations will not be adversely impacted by the proposed operations and stormwater discharges will not change the salinity of the Little River and associated wetlands. (Exs. APP-25, 75; exs. DEP-9, 22; test. D. Lowry, 07-09-02, pp. 297-299, 329; test. C. Atkins, 07-16-02, pp. 469-470; test. D. Kozak, 07-16-02, pp. 516-517.)

63. Because pollutants absorbed by the phragmite vegetation may remain in the plant tissue, OSLISP recommended adding a condition in the permit that would require the applicant to harvest the phragmite vegetation at the end of each growing season and properly dispose of it. (Ex. APP-75; ex. DEP-22; test. D. Lowry, 07-09-02, pp. 329-330.)

64. DSB alleges that barn owls have been observed in the general vicinity of the site and the facility will adversely impact this species of bird as well as wildlife in and around the site. Mr. Lowry conducted a field survey on June 30, 2002 and examined wildlife habitat on and immediately adjacent to the site and found no evidence of barn owls nesting at the site. He concluded that conditions at the site are not conducive to the forging habitat of barn owls or any other endangered, threatened or other species of special concern. (Ex. APP-80; test. D. Lowry, 07-09-02, pp. 307-309, 331.)

65. The DEP Natural Resources Center reviewed the Natural Diversity Database maps and files and found that there are no extant populations of Federal or State Endangered, Threatened or Special Concern Species at the site and in the immediate surrounding area. (Exs. APP-27, 77, 78; test. D. Lowry, 07-09-02, pp. 305-306.)

66. According to Nancy Rosenbaum, a biologist and expert witness for the DSB, the Quinnipiac River tidal marshes are an attractive habitat to various birds and wildlife species and the effects of lights from the proposed facility would adversely affect birds migrating at night. Ms. Rosenbaum did not conduct any studies regarding the effects of lights on bird species and produced no empirical evidence to support this claim. (Test. N. Rosenbaum, 07-23-02, pp. 699-702, 705.)

III

CONCLUSIONS OF LAW

A

COMPLETENESS OF THE APPLICATION

The Commissioner may issue or deny a permit under such conditions as he may prescribe and upon submission of such information as he may require for the construction and operation of a volume reduction facility. General Statutes §22a-208a (a). The information required in an application for permits to construct and operate a solid waste facility is set forth Regs., Conn. State Agencies §22a-209-4. DSB contends that because the applicant failed to include certain information in the application it is incomplete and should be denied. ““An application will not be deemed complete until all the information required by the statutes or regulations or otherwise requested by the Commissioner have been submitted in proper form’. Regs., Conn. State

Agencies §22a-209-4 (b).” *Newtown v. Keeney*, 234 Conn. 312, 322 (1995). The decision as to what information must be included in an application for a solid waste permit is ultimately within the discretion of the Commissioner and need only include those items necessary in order for the Commissioner to make a decision on the application. *Preston v. Department of Environmental Protection*, 218 Conn. 821, 829 (1991). In rejecting the plaintiff’s argument in *Preston* that every item of information set forth in the regulations must be included in an application, the court stated that that such reasoning would “elevate form over substance” in “cases where the Commissioner, in his discretion deems such information either unnecessary or superfluous.” *Id.* at 830. The record contains sufficient information for the Commissioner to render a decision on the application.

B

STATUTORY AND REGULATORY CRITERIA

The Commissioner’s authority to regulate solid waste facilities is set forth in Chapter 446d of the General Statutes, referred to herein as the *Solid Waste Management Act (SWMA)*. General Statutes §§22a-207 *et seq.* and Regulations Connecticut State Agencies §§22a-409-1, *et seq.* The Commissioner shall enforce the provisions and requirements of the SWMA and “examine all existing or proposed solid waste facilities and provide for their proper planning, design, construction, operation.... in a manner which ensures against pollution of the waters of the state, prevents the harboring of vectors, prevents fire and explosion and minimizes the emission of objectionable odors, dust or other air pollutants so that the health, safety, and welfare of the people of the state shall be safeguarded and enhanced and the natural resources and

environment of the state may be conserved, improved and protected.” General Statutes §22a-208 (a).

Section 208a (a) provides that “The Commissioner...may issue, deny, modify...revoke or transfer a permit, under such conditions as he may prescribe...in accordance with this chapter and regulations as adopted pursuant to this chapter”. The regulations that set forth detailed requirements and standards for permits to construct and operate a solid waste volume reduction facility are contained in §§22a-209-4 and 22a-209-10, and the Commissioner shall issue permits to construct and operate if those standards are met.

The proposed regulated activities will take place within the State’s coastal area and must also be consistent with the policies and provisions of the CMA.

(1)

General Statutes §22a-208

a

Pollution of the Waters of the State

The proposed facility will be located in an active industrial rail yard and unloading, consolidation and loading operations will take place inside an enclosed waterproof building. The building will contain indoor dust and the building’s dust suppression system will control dust levels. Waste unloaded in the sealed pit will have no contact with surface water or soils and no waste will be placed or stored on the ground. At the end of the operating day, any remaining waste in the pit will be removed and loaded on the last rail car and the pit will be cleaned. Paved roads will reduce the permeation and pooling of rainwater and the modified stormwater management system will direct surface water runoff into a primary treatment system eliminating

the direct discharge of untreated stormwater runoff into the Quinnipiac River. All loaded trucks and rail cars will be covered to prevent waste from coming into direct contact with rainwater. There is no evidence in the record that demonstrates the proposed facility will pollute the waters of the state.

DSB claims that soils at the site are polluted and will be disturbed and cause unreasonable pollution during construction activities. Groundwater at the site is classified as GB and soil samples taken in proposed excavation areas indicate that levels of VOCs, SVOCs and toxic metals are below the CRSRs and that no soil remediation would be necessary at the site. There is insufficient evidence in the record to demonstrate that soils at the site are contaminated with hazardous wastes requiring remediation. Nevertheless, because certain areas in the rail yard ancillary to the site historically have been contaminated with hazardous wastes and are subject to past remediation orders, and in order to mitigate any potential pollution to the waters of the state, I recommend adding an additional condition in the permit to construct that would require the applicant to appropriately characterize, manage and properly dispose of any polluted soils discovered during construction activities in accordance with the CRSRs.

b

Protection Against the Harboring of Vectors

Vectors have the potential to transmit disease and include rodents, insects and scavenging birds. The kind of waste processed at the facility is not an attractive food source for rodents or birds and even though this type of waste does not typically attract vectors, all operational and consolidation activities will take place in an enclosed structure. To prevent and reduce the potential opportunity for vectors to harbor inside the building, the pit will be emptied and

cleaned at the end of each day and receiving bay and rail car doors will be closed when operations are shut down. A fence installed around the facility will prevent terrestrial vectors from entering the building. The facility has been designed to control and protect against the harboring of vectors.

c

Prevention of Fire and Explosion

Because of the nature of the waste, the chance for fire and explosion at the facility will be minimal. However, to protect against the dangers of fire and explosion, the facility will be equipped with a sprinkler system, fire extinguishers, pull fire alarms, fire hydrants, an infrared heat hot load detection system, radioactive waste detection system, fire lanes and a designated truck turnout area to handle truck fire emergencies. The O&M Plan contains fire emergency control, response and containment procedures, contingency plans and coordination protocols with local medical, police and fire protection agencies and the DEP. Facility personnel will be trained to handle and identify unacceptable waste, safety procedures and first aid. I conclude that the design of the facility and operational measures will prevent and protect against fire and explosion.

d

***Minimize the Emission Objectionable Odors,
Dust or Other Air Pollutants***

Unlike municipal waste, C&D debris is low in moisture content and does not produce unpleasant or objectionable odors. Indoor dust created during unloading, consolidation and loading activities will be contained inside the enclosed building and the plastic flaps on receiving

bays and rail doors will prevent wind from blowing dust in and out of the building. When dust opacity levels inside the building are exceeded, the dust suppression system will automatically activate and knock down dust particles.

To minimize outdoor dust, gravel roads will be widened and paved and loaded trucks and rail cars will be covered. Trucks will be restricted to traversing on paved roads and the tipping plaza. The fence installed around the perimeter of the facility will control litter and employees will routinely collect stray pieces of litter on the site. At the end of each operating day, the applicant will empty and clean the pit and sweep the rail scale area, tipping plaza, driveway ramps and scale house plaza. The lessor, NICESA, LLC, will be responsible for maintaining and sweeping the access roads.

The levels of diesel air emissions from trucks traveling to and from the facility, including particulate matter, non-methane hydrocarbons, carbon monoxide and nitrogen oxides will be minor and air emissions from the non-methane hydrocarbon fraction will be negligible and will not degrade local air quality. DSB failed to produce sufficient evidence to demonstrate that any of these air pollutants identified are reasonably likely to occur at levels in excess of any statutory or regulatory standards and will cause increased health risks and impacts on the surrounding community.

Truck routes to and from the facility will avoid residential neighborhoods and will safely handle the volume of traffic generated. Impacts in the local community would be insignificant and almost immeasurable. The area is zoned for industrial use and there is established commercial traffic on Middletown Avenue that includes uses by adjacent industrial facilities. To prevent a concentration of trucks traveling during rush hour and to spread out truck traffic over the course of the day, a condition in the temporary permit to operate would restrict the applicant

to scheduling no more than four inbound trucks per hour, in no less than fifteen-minute intervals and limit the maximum permitted number of queuing trucks on site to fifteen. The access road will provide sufficient queuing space and trucks will not interfere or block traffic on Middletown Avenue. The levels of odors, dust, diesel air emissions and traffic from the facility will not cause adverse environmental or health impacts or cause unreasonable pollution.

e

The Health, Safety and Welfare Of the People of the State Are Safeguarded and Enhanced and The Natural Resources and Environment of the State Are Conserved, Improved and Protected

No evidence was presented during the course of the hearings that demonstrated that the proposed facility would adversely impact the health, safety and welfare of the citizens of the state or natural resources. Evidence in the record demonstrates that the proposed facility will be operated in an environmentally acceptable manner consistent with the goals and policies of the SWMP and will conserve and extend the useful life of the state's limited landfill space. The applicant's proposal to modify the site's existing stormwater management system would eliminate the direct discharge of untreated stormwater into the Quinnipiac River and significantly improve water quality. The shipment of waste by rail is an efficient means of long-haul transportation and will reduce the number of trucks traveling to and from in and out-of-state disposal sites, conserve fuel, reduce truck traffic and road wear and reduce regional air emissions. The design and operation of the proposed facility will safeguard and enhance the health, safety and welfare of the people of the state and the natural resources and environment of the state will be conserved, improved and protected.

(2)

Regulations Conn. State Agencies §22a-209-4

DSB asserts that the facility plan, which includes engineering, architectural and mechanical drawings and the site plans are improperly certified. Section 22a-209-4 (2) states that “a facility plan, including engineering studies and proposals, shall accompany the application and be prepared by an engineer licensed to practice in the State of Connecticut.” CBA prepared the base drawings and the engineering, architectural and site plans were reviewed and stamped by an engineer and employee of CBA who is licensed to practice in the State. Staff reviewed the application, including the engineering, architectural and site plans and supplementary documents submitted by the applicant and found it was complete and consistent with the requirements of §22a-209-4. The record contains sufficient information for the Commissioner to render a decision on the application.

(3)

Regulations Conn. State Agencies §22a-209-10

In addition to meeting the requirements of §22a-209-4, the applicant must also comply with §22a-209-10, which sets forth the permit and operating requirements for volume reduction facilities. These requirements include: access; storage restrictions; working area; litter control; certified operators; waste restrictions; air quality; fire and explosion controls and prevention; measuring procedures; and daily record requirements. To control unauthorized access to the facility and prevent trespassing, the applicant will install access gates at the entrance of the scale house plaza and a chain link fence around the facility. A sign posted at the entrance of the site will specify the name of the facility, the hours of operations and include a statement that loads

will be accepted by appointment only. No waste will be allowed to be stored in the pit overnight and loaded rail cars must be removed off-site within forty-eight hours. Prior to construction of the facility, the applicant will post a closure surety bond to cover the third party costs for handling, removal and proper disposal of the maximum amount of unprocessed/processed waste capable of being stored on site. Waste handling operations will take place inside the enclosed building and a certified operator will be present at all times during working hours. Waste will be restricted to the sealed pit and rail cars and employees will control litter in and around the facility and keep it clean. The facility will not accept hazardous wastes and special wastes, and is designed and equipped to prevent, handle and control fires and explosions. Employees will be trained in emergency precautions and first aid as discussed in detail in the O&M Plan. Indoor and outdoor dust will be controlled and minimized and will not pose any adverse impacts to the environment. The type of waste accepted at the facility will not cause any offensive odors. Diesel air emissions from inbound and outbound trucks will be negligible and will not degrade air quality in New Haven and truck traffic impacts on roadway routes to and from the facility will be insignificant and almost immeasurable. Traffic flow at various intersections and ramps approaching the site will remain unchanged. The applicant will maintain daily records and prepare and submit quarterly summaries to staff. I conclude that the proposed facility is consistent with the requirements of §22a-209-10.

(4)

Coastal Management Act

The CMA sets forth the legislative goals and policies that must be followed when any development, preservation or use of the land and water resources is proposed within a coastal

area. General Statutes §22a-92. The facility will be located in a coastal boundary and flood zone and the Commissioner is charged with assuring consistency with the goals and policies of the CMA when granting or denying permits in a coastal area. General Statutes §22a-98.

“Adverse impacts on coastal resources” are defined to include but are not limited to: the degrading of water quality, circulation, natural erosion and drainage patterns; the degrading of visual quality through significant alteration of the natural features of vistas and viewpoints; the degrading or destroying of essential wildlife, finfish or shellfish habitat; the degrading of tidal wetlands through significant alteration of their natural characteristics or function; and increasing the hazard of coastal flooding. General Statutes §22a-93 (15).

The building will be built above existing grade and the tipping plaza surrounding the building will be backfilled to a height of twelve feet above base flood elevation. All operations will take place above existing elevation and there is no evidence in the record that the facility will increase the hazard of coastal flooding or storm damage on adjacent or adjoining properties. The site is located in an industrial area and the facility will be situated in an active portion of the rail yard. The facility will be located in a securely patrolled area in the rail yard and the landfill and embankment will shield the facility from Middletown Avenue and I-91. The evidence in the record is insufficient to show that the visual quality of the area will be significantly altered or degraded.

DSB contends that the facility will adversely impact barn owls and birds migrating at night. The results of a field study and Natural Diversity Database Maps show that there are no Federal or State Endangered, Threatened or Special Concern Species at the site and the site is not conducive to support the forging habitat of the barn owl or any other endangered, threatened or other species of special concern. All loading and unloading activities will take place inside the

building and noise from crushing and consolidation will be contained inside the structure. There is insufficient evidence in the record that demonstrates that the facility will adversely impact barn owls, migrating birds, water quality, adjacent wetlands or other coastal resources. The proposed regulated activities are consistent with the goals and policies of the CMA.

C

COMPLIANCE HISTORY

Section 22a-6m of the General Statutes provides that the Commissioner may deny an application for permits to construct and operate a solid waste facility where he finds that the applicant's compliance record "evidences a pattern or practice of noncompliance which demonstrates the applicant's unwillingness or inability to achieve and maintain compliance with the terms and conditions of the permit...." §22a-6m (a). As part of its review of the application, staff reviewed the applicant's compliance history and found that the applicant's history did not warrant denial of the application or modifications to the permits. There is no evidence in the record that demonstrates the applicant engaged in a pattern of significant willful noncompliance with environmental laws to support the denial of these permits.

D

ENVIRONMENTAL EQUITY

The concept of environmental equity means that all people should be treated fairly under environmental laws regardless of race, ethnicity, culture, or economic status. The goals of the DEP are to encourage and facilitate community participation in the agency's ongoing operations and program development, policy-making and regulatory activities. In December 1993, the DEP

created and issued an *Environmental Equity Policy*, which provides in pertinent part that “...no segment of the population should, because of its racial or economic makeup, bear a disproportionate share of the risks and consequences of environmental pollution or be denied equal access to environmental benefits.” The policy encourages the applicant to communicate and build partnerships with residents in the community and elected officials informing them of the application and soliciting public participation in the permitting process. The record shows that the applicant posted a sign at the entrance of the facility notifying the public of the permit application and conducted extensive outreach activities to notify the members of the community. The applicant worked with staff and prepared an environmental equity plan that staff found to be consistent and responsive to the policy. In addition, as the evidence demonstrates, the proposed facility will not impact or degrade air quality and will not cause human health problems. DSB and the residents of Fair Haven will not bear a disproportionate risk or consequence of any environmental pollution.

E

ALTERNATIVES

DSB intervened under the provisions of §22a-19 (a) and alleges that the proposed facility “involves conduct which has, or which is reasonably like to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state”. Subsection (b) of this statute further provides that no conduct shall be authorized or approved that does have such an effect if there exists, considering all the relevant surrounding circumstances and factors, “a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety and welfare”.

DSB contends that soils at the site are polluted and that the applicant should be required to conduct additional soil and groundwater testing and perform remediation prior to any construction. The burden of proving that the proposed project would have, or would be reasonably likely to have, the effect of “unreasonably polluting, impairing or destroying” the air, water or natural resources of the state, including wildlife belongs to the DSB. *Manchester Environmental Coalition v. Stockton*, 184 Conn. 51 (1981).

In *Waterbury v. Washington*, 260 Conn. 506 (2002), the court evaluated a claim of “unreasonable impairment” under the Connecticut Environmental Protection Act (CEPA), General Statutes §22a-14 et seq., and held that the claim in that case should be reviewed and evaluated “through the lens of the entire statutory scheme, if any, that the legislature has created to regulate the conduct underlying the impairment”. *Id.* at 549. “Put another way, when there is an environmental legislative and regulatory scheme in place that specifically governs the conduct that [an intervenor] claims to constitute an unreasonable impairment under CEPA, whether the conduct is unreasonable under CEPA will depend on whether it complies with that scheme.” *Id.* at 557.

DSB has not presented sufficient evidence to demonstrate that soils at the site are polluted and require remediation or that the construction and operation of the proposed facility will create and cause unreasonable pollution. DSB has not presented adequate evidence to establish unreasonable impairment “through the lens” of the statutory and regulatory schemes set forth in the SWMA and CMA. There is no evidence that the proposed regulated activities are inconsistent with statutory and regulatory requirements, or with any policies that protect the environment. Neither DSB’s exhibits nor its witnesses have established sufficient proof that the facility will cause unreasonable pollution. Its reliance on facts not in evidence or unsupported

facts in its post hearing briefs is also unavailing. In fact, the evidence presented demonstrates that construction and operation of the proposed facility in accordance with the terms and conditions of the permit and modifications herein would result in improved environmental conditions and would protect and conserve the natural resources of the state.

Section 22a-19 (b) requires the consideration of alternatives only when it is first determined that the proposed activities will cause unreasonable pollution. Because DSB failed to meet its burden, the Commissioner is not required to determine whether a feasible and prudent alternative to the proposed regulated activities exists. *Paige v. Town Planning & Zoning Commission of the Town of Fairfield*, 235 Conn. 448 (1995). However, the applicant in effort to minimize environmental impacts to the greatest extent possible, considered alternatives to the proposed facility that included locating the building in two other areas on the site and designing a square building. In contrast to the proposed circular building, a square building would be less efficient. The other locations on site were closer to the Quinnipiac River and would require additional site development and cause greater environmental impacts. The evidence presented demonstrates that there is no feasible and prudent alternative to the proposed facility that would be consistent with the reasonable requirements of safeguarding the health, safety, and welfare of the people of the state and protecting, conserving and improving the environment and natural resources.

IV

CONCLUSION

The application contains sufficient information for the Commissioner to render a decision. The proposed permits are consistent with and satisfy all applicable provisions of all relevant statutes and regulations. General Statutes §§22a-207 *et seq.*, §§22a-90 *et seq.*, and Regs., Conn. State Agencies §§22a-209-1 *et seq.* The applicant's compliance history does not indicate a pattern or practice of willful noncompliance to justify denial of the permits and the applicant has successfully met its obligations under the *Environmental Equity Policy* as implemented by the DEP. The permit to construct and the temporary permit to operate should be issued with the permit conditions proposed by DEP staff. Should the results of performance tests reveal the facility is operating in compliance with the terms and conditions of the temporary permit, I also recommend that the permit to operate be issued.

V

RECOMMENDED PERMIT CONDITIONS

I therefore recommend that the proposed the permit to construct, Permit No. 0930544-PC and temporary permit to operate (Attachments A & C) and permit to operate if conditions are met (Attachment B) be issued in accordance with the modifications outlined below:

Permit to Construct No.: 0930544-PC

The following paragraphs shall be added to the Permit.

“5a. The Permittee shall, prior to commencing construction activities:

- i. post a \$255,000 closure surety bond with the DEP to cover third party costs for the handling, removal and proper disposal of the maximum amount of unprocessed/processed solid waste and residue capable of being stored at the site.

- ii. obtain a stormwater discharge permit from the Bureau of Water Management. This permit shall include a requirement that the Permittee shall harvest and properly dispose of phragmite vegetation at the end of every growing season.
 - iii. obtain a written determination from the Bureau of Air Management as to whether a new source air permit is required for operation of the stationary prime loader exhaust stack emissions.”
- “7a. The Permittee shall ensure that any solid waste or contaminated soils discovered during excavation and construction activities shall be appropriately characterized and managed in accordance with the Connecticut Remediation Standard Regulations, R.C.S.A. §22a-133k-1 through 22a-133k-2. Any hazardous material discovered shall be disposed of off-site at a solid waste facility permitted to receive such wastes. In the event contaminated soils or solid waste is discovered, the Permittee shall immediately notify the Bureau of Waste Management Waste Engineering and Enforcement Division and describe its intended actions and actions taken. The Permittee shall maintain written documentation describing, at a minimum the type, volume and final destination for any such waste removed for off-site disposal and submit documentation to staff.”

Temporary Permit to Operate

The following paragraph shall be added to the Permit

- “5a. For the operating life of the facility, the Permittee shall provide a telephone number at which a representative of the Permittee will be available to receive questions from area residents and other persons regarding the volume reduction facility, and shall designate a contact person responsible for responding to these inquiries. The Permittee shall arrange for the timely and appropriate response during normal business hours to any and all questions and complaints. The Department shall be informed of all complaints received and the nature of the response provided by the Permittee to the person registering the complaint by a log provided with each quarterly report submitted in accordance with paragraph ten (10) of this permit.

January 21, 2002
Date

/s/ Elaine R. Tata
Elaine R. Tata, Hearing Officer

ATTACHMENT A

PERMIT TO CONSTRUCT DRAFT 07/16/02

PERMITTEE: Circle of Life, LLC
FACILITY ADDRESS: 158R Middletown Avenue, New Haven, CT
PERMIT NO. 0930544-PC

Pursuant to Section 22a-208a of the Connecticut General Statutes ("CGS") and Section 22a-209-4 of the Regulations of Connecticut State Agencies ("RCSA"), a PERMIT TO CONSTRUCT IS HEREBY ISSUED by the Commissioner of the Department of Environmental Protection ("Commissioner") to Circle of Life, LLC ("Permittee") to construct a solid waste volume reduction facility ("Facility") located at 158R Middletown Avenue, New Haven, CT.

TERMS AND CONDITIONS

1. As used in this permit, the following definitions apply:

“Commissioner” means the Commissioner of the Department of Environmental Protection or his representative.

“Day” means calendar day.

“Department” means the Department of Environmental Protection.

“Construction and Demolition Waste” or “C&D waste” means waste from construction and demolition activities as defined in CGS Section 22a-208x.

“Operation” means operation of the Facility, including operation for purposes of start-up, shakedown or performance testing.

“Processing” means the practice by which either the physical characteristics or the volume of solid waste accepted at the Facility is being altered through separating, sorting, baling, shredding, crushing, grinding, chipping, compacting, consolidation, transfer or reworking as part of the volume reduction operations.

“Residue” means all solid waste as defined in CGS Section 22a-207, other than recovered materials remaining after handling and processing of the incoming waste stream.

2. The Permittee is authorized to construct the Facility in accordance with all documents and specifications submitted as part of application No. 200001829, including the following documents incorporated herein by reference:
 - a. Application form dated June 8, 2000 with the following attachments: Executive Summary, Applicant Compliance Information, USGS Map with facility location, Background Information, Statement of Consistency with Solid Waste Management Plan, Business Information, Operation and Management Plan, Coastal Consistency Review Form and other miscellaneous information.
 - b. A letter from David J. Monz, Attorney for Updike, Kelly and Spellacy, P.C. representative for Circle of Life, LLC to Charles Atkins (DEP) dated September 25, 2000, with attached submittals including an Environmental Equity Plan.
 - c. A set of seventeen (17) site drawings prepared by Clarence Blair Associates, Inc., Civil Engineers and Land Surveyors, New Haven, CT, fifteen (15) of which are dated September 19, 2000, one (1) is dated 6/25/97 and the last is dated 1/31/92, all of which were received by WEED on September 25, 2000.
 - d. A letter from David J. Monz, Attorney for Updike, Kelly and Spellacy, P.C. representative for Circle of Life, LLC to Charles Atkins (DEP) dated March 15, 2001, updating DEP on progress made on environmental equity efforts.
 - e. A letter from Mark Robinson Holland, CEO Burnall Facilities Group, Inc. dated April 23, 2001, addressed and hand-delivered to Joseph Faryniarz (DEP) on April 24, 2001, with attached materials clarifying WEED review letter dated March 15, 2001 including: (1) a four page replacement section on traffic; (2) copies of disposal facility agreements; (3) Plant Anomaly Matrix (used to identify incidents that may occur at the facility and to determine what responses may be required); (4) a current version of the Circle of Life Health and Safety Manual; and, (5) a discussion on dust control.
 - f. A set of thirteen (13) engineering drawings prepared by Burnall Facilities Group, Inc. and certified by Robert H. Mansfield, P.E. which were received by WEED on September 6, 2001.
 - g. A letter from Mark S. Bourgeois, III, CES, representative for Circle of Life, LLC to Charles Atkins (DEP) dated September 14, 2001, with information and calculations for Circle of Life surety.
 - h. A letter from Mark Robinson Holland, CEO Burnall Facilities Group, Inc. dated September 17, 2001 to Joseph Faryniarz (DEP) revising hours of operation.
 - i. A set of nine (9) engineering drawings prepared by Burnall Facilities Group, Inc. and certified by Robert H. Mansfield, P.E. received by WEED on June 24, 2002 as follows: Sheet U-1, dated 11/20/01 revised 3/02; Sheet U-2, dated 11/19/01 revised 3/02; Sheet U-4, dated 3/10/02; Sheet U-5, dated 3/10/02; Sheet U-6, dated 3/10/02; and Sheets C-5, C-6, C-7, C-8 dated 9/19/00 revised 3/02.

The Permittee shall maintain records of all documents comprising and all data pertaining to the application mentioned in this condition, as well as any supplemental information submitted to the Department in connection with such application. Any inaccuracies

found in the information submitted by the Permittee may result in revocation, reissuance, or modification of this permit and civil or criminal enforcement actions.

3. The Permittee shall comply with all terms and conditions of this permit. This permit consists of the conditions contained herein and the specifications contained in the application documents, except where such specifications are superseded by the more stringent conditions contained herein. Violation of any provision of this permit is subject to enforcement action pursuant to Sections 22a-6, 22a-208, 22a-225 and 22a-226 of the CGS.
4. The Permittee shall make no changes to the specifications and requirements of this permit, except in accordance with law.
5. To the extent any term or condition of this permit is inconsistent with any data or information contained in the application or any other documents incorporated by reference in this permit, the term or condition of this permit shall control.
6. The Permittee is authorized to construct the Facility in accordance with all applicable law, including this permit. The Facility shall consist of: a tensioned membrane column-free 88 foot diameter fabric building with four (4) large sliding doors, a modified Caterpillar 345 BL Excavator-style Prime Loader capable of 360 degrees of rotation mounted atop the center pedestal, a 15 foot deep pit for storage of material; two (2) new truck scales, a railscale and a scale house/security building with paved roadways; and railcar sidings on the property including one that enters and exits the building on site.
7. The Permittee is authorized to construct the Facility for the purpose of processing no more than a total of 2,378 tons/day (TPD) maximum of the following types of solid waste: C&D waste; utility poles; railroad ties; and landclearing debris. Storage shall be limited to the following specifications: (a) no more than 3,700 cubic yards (1,000 tons) of incoming solid waste unloaded and confined to the storage pit area; and (b) 8880 cubic yards (2,400 tons) of solid waste reloaded into no more than 30 railcars.
8. The Permittee shall: (a) notify the Department when the construction of the Facility is finalized; (b) submit a PE certified as-built Site Plan drawing along with a formal request for the issuance of the Permit to Operate; and (c) not start operation of the Facility before a Permit to Operate is issued. Unless otherwise specified in writing by the Commissioner, any documents required to be submitted under this condition shall be directed to:

Mr. Charles L. Atkins

Waste Engineering and Enforcement Division
Bureau of Waste Management
Department of Environmental Protection
79 Elm Street, Hartford, CT 06106-5127

9. The Permittee shall control dust, odors, water discharges and noise resulting from the construction of the Facility at all times to assure compliance with applicable requirements of RCSA and any other applicable laws and in continuous compliance with all applicable OSHA requirements.
10. The Permittee shall submit a Performance Test Protocol for review and written approval by the Commissioner. The test shall be a minimum of five (5) consecutive days conducted and certified by a 3rd party engineer licensed to practice in the State of Connecticut. At a minimum, such protocol shall demonstrate the facility's ability to achieve and comply with the following operational parameters:
 - a. Maximum receiving rate of four trucks per hour;
 - b. Evaluate maximum permitted daily capacity;
 - c. Storage capacity of waste on the tipping floor;
 - d. Average processing time of in-bound waste vehicles;
 - e. Transfer to rail car and rail car storage;
 - f. Noise levels at property line;
 - g. Dust emissions; and
 - h. Evaluate compliance with all operational conditions in the permit to operate.
 - i. Conduct OSHA testing for asbestos and lead.
11. The Permittee shall, prior to commencing the temporary operation for testing, submit the qualifications of the 3rd party engineer for the Commissioner's review and written approval. The performance test performed pursuant to this permit shall be conducted under the supervision of a professional engineer licensed to practice in Connecticut ("consultant") approved in writing by the Commissioner. The Permittee shall, prior to the Commissioner's approval of the named consultant, certify to the Commissioner that such consultant: (i) is not a subsidiary or affiliated corporation; (ii) does not own stock in Permittee or any parent, subsidiary, or affiliated corporation; (iii) has no history of participation in any previous contractual agreement, and no anticipated future contractual relationships, with Permittee or any parent, subsidiary, or affiliated corporation, which, in the Commissioner's judgement and after full disclosure of such participation, would affect the consultant's ability to exercise the independent judgement and discipline required to conduct the performance test; (iv) have no other direct financial stake in the outcome of the performance test outlined in this permit; and (v) have expertise and competence in environmental testing and the regulatory programs being addressed through this permit.
12. The date of submission to the Commissioner of any document required by this permit shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this permit, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three days after it is mailed by the Commissioner, whichever is earlier. Any document or action which is due or required on a Saturday, Sunday or a state/federal holiday shall be submitted or performed by the next business day thereafter.

13. Any document, including, but not limited to any notice, which is required to be submitted to the Commissioner under this permit shall be signed by a duly authorized representative of the Permittee, as defined in Section 22a-430-3(b)(2) of the RCSA, and by the individual or individuals responsible for actually preparing such documents, each of whom shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement in the submitted information may be punishable as a criminal offense." Any false statement in any document submitted pursuant to this permit may be punishable as a criminal offense in accordance with Section 22a-6 of the CGS, pursuant to Section 53a-157 of the CGS, and in accordance with any other applicable statute.
14. This permit is subject to and in no way derogates from any present or future property rights or other rights or powers of the State of Connecticut and conveys no property rights in real estate or material nor any exclusive privileges and is further subject to any and all public and private rights and to any federal, state or local laws or regulations pertinent to the Facility or activity affected thereby.
15. Nothing in this permit shall affect the Commissioner's authority to institute any proceeding to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for violations of law.
16. Nothing in this permit shall relieve the Permittee of other obligations under applicable federal, state and municipal laws.
17. This Permit to Construct may be revoked, suspended, modified or transferred in accordance with applicable law.

Issued on this _____ day of _____, 2002.

By _____
 Arthur J. Rocque, Jr.
 Commissioner

Solid Waste Permit to Construct No. 0930544-PC
 Permit Application No. 200001829

Permittee - Certified Mail # _____
 City/Town Clerk - Certified Mail # _____

ATTACHMENT B

TEMPORARY PERMIT TO OPERATE

DRAFT 07/16/02

PERMITTEE: Circle of Life, LLC
FACILITY ADDRESS: 158R Middletown Avenue, New Haven, CT
PERMIT NO. xxxxxxx-TPO

Pursuant to Section 22a-208a of the Connecticut General Statutes (“CGS”) and Section 22a-209-4 of the Regulations of Connecticut State Agencies (“RCSA”), and based on the Permit to Construct No. 0930544-PC issued on (to be entered upon permit issuance) by the Commissioner of Environmental Protection (“Commissioner”) to Circle of Life, LLC, a TEMPORARY PERMIT TO OPERATE IS HEREBY ISSUED by the Commissioner to Circle of Life, LLC (“Permittee”) to operate the solid waste volume reduction (“Facility”) located at 158R Middletown Avenue, New Haven, CT.

TERMS AND CONDITIONS

1. As used in this permit, the following definitions apply:

“Commissioner” means the Commissioner of the Department of Environmental Protection or his representative.

“Day” means calendar day.

“Department” means the Department of Environmental Protection.

“Construction and Demolition Waste” or “C&D waste” means waste from construction and demolition activities as defined in CGS Section 22a-208x.

“Clean Wood” means wood which does not constitute treated wood as defined below.

“Processing” means the practice by which either the physical characteristics or the volume of solid waste accepted at the Facility is being altered through waste consolidation and transfer operations.

“Recovered Materials” means processed solid wastes which are ultimately delivered to a market or other permitted recycling or reclamation facility.

“Residue” means all solid waste as defined in CGS Section 22a-207, other than recovered materials, remaining after handling and processing of the incoming waste stream.

2. The Permittee is authorized to operate the Facility only for the purpose of start-up, equipment shakedown and performance test, in accordance with all applicable law, and

all documents and specifications submitted as part of application No. **(to be entered upon permit issuance)**, including the following documents incorporated herein by reference:

- a. Application form dated June 8, 2000 with the following attachments: Executive Summary, Applicant Compliance Information, USGS Map with facility location, Background Information, Statement of Consistency with Solid Waste Management Plan, Business Information, Operation and Management Plan, Coastal Consistency review Form and other miscellaneous information.
- b. A set of seventeen (17) site drawings prepared by Clarence Blair Associates, Inc., Civil Engineers and Land Surveyors, New Haven, CT, fifteen (15) of which are dated September 19, 2000, one (1) is dated 6/25/97 and the last is dated 1/31/92, all of which were received by WEED on September 25, 2000.
- c. A letter from Mark Robinson Holland, CEO Burnside Facilities Group, Inc. dated April 23, 2001, addressed and hand-delivered to Joseph Faryniarz (DEP) on April 24, 2001, with attached materials clarifying WEED review letter dated March 15, 2001 including: (1) a four page replacement section on traffic; (2) copies of disposal facility agreements; (3) Plant Anomaly Matrix (used to identify incidents that may occur at the facility and to determine what responses may be required); (4) a current version of the Circle of Life Health and Safety Manual; and, (5) a discussion on dust control.
- d. A set of thirteen (13) engineering drawings prepared by Burnall Facilities Group, Inc. and certified by Robert H. Mansfield, P.E. which were received by WEED on September 6, 2001.
- e. A letter from Mark S. Bourgeois, III, CES, representative for Circle of Life, LLC to Charles Atkins (DEP) dated September 14, 2001, with information and calculations for Circle of Life, LLC surety.
- f. A letter from Mark Robinson Holland, CEO Burnall Facilities Group, Inc. dated September 17, 2001 to Joseph Faryniarz (DEP) revising hours of operation.
- g. A set of nine (9) engineering drawings prepared by Burnall Facilities Group, Inc. and certified by Robert H. Mansfield, P.E. received by WEED on June 24, 2002 as follows: Sheet U-1, dated 11/20/01 revised 3/02; Sheet U-2, dated 11/19/01 revised 3/02; Sheet U-4, dated 3/10/02; Sheet U-5, dated 3/10/02; Sheet U-6, dated 3/10/02; and Sheets C-5, C-6, C-7, C-8 dated 9/19/00 revised 3/02.
- h. Performance Protocol, dated and prepared by **(TO BE INSERTED WHEN SUBMITTED)**

The Permittee shall maintain records of all documents comprising and all data pertaining to the applications mentioned in this condition, as well as any supplemental information submitted to the Department in connection with such applications. Any inaccuracies found in the information submitted by the Permittee may result in revocation, reissuance, or modification of this permit and civil or criminal enforcement actions.

3. The Permittee shall comply with all terms and conditions of this permit. This permit consists of the conditions contained herein and the specifications contained in the application documents, except where such specifications are superseded by the more stringent conditions contained herein. Violation of any provision of this permit is subject

to enforcement action pursuant to Sections 22a-6, 22a-208, 22a-225 and 22a-226 of the CGS.

4. The Permittee shall make no changes to the specifications and requirements of this permit, except in accordance with law.
5. The Permittee is authorized to operate the Facility only for the purpose of start-up, equipment shakedown and performance test, in accordance with all applicable law, including this permit. Unless otherwise approved by the Commissioner, the facility will operate from 6:00 a.m. Monday through 12:00 a.m. Sunday and will not operate from 12:00 a.m. Sunday through 6:00 a.m. Monday.
6. The Permittee shall notify the Commissioner at a minimum five days before commencement of the performance test.
7. The Permittee shall submit to the Commissioner, within fifteen (15) days of completing the performance test, a report prepared and certified by the 3rd party engineer, whose qualifications were approved by the Commissioner. The report shall interpret, evaluate, compare and summarize the performance test results with respect to the Facility design capacities and test criteria established by the Test Protocol, as well as an executive summary containing his conclusion as to whether or not the Facility can operate as designed.
8. The Permittee shall receive and process at the Facility no more than a total of 2,378 tons/day (TPD) maximum of the following types of solid waste: C&D waste; utility poles; railroad ties; and landclearing debris. Storage shall be limited to the following specifications: (a) no more than 3,700 cubic yards (1,000 tons) of incoming solid waste unloaded and confined to the storage pit area; and (b) 8880 cubic yards (2,400 tons) of solid waste reloaded into no more than thirty (30) railcars. The Permittee shall not exceed the processing and storage limits established by this permit. Solid waste, other than those listed herein, shall not be accepted, processed, treated, stored, transported or disposed off-site, or otherwise processed at the Facility without prior written approval of the Commissioner
9. The Permittee shall store/handle solid waste at the Facility in accordance with, but not limited to the following specifications:
 - a. Storage of processed/unprocessed solid waste (C&D waste; utility poles; railroad ties; and landclearing debris) shall take place indoors in the storage pit area within the building on-site or in no more than 30 railcars stored outdoors on-site. Outdoor storage in railcars shall not exceed 48 hours and shall take place only in railcars that are covered by secure tarpaulins.
10. The Permittee shall:
 - a. Store solid waste on-site in conformance with proper fire control measures. Routine maintenance and inspections of all fire control equipment shall be conducted in accordance with manufacturer's specifications.

- b. Control all traffic related with the operation of the Facility in such a way as to mitigate queuing of trucks on/off site and excessive traffic impact in the area where the Facility is located. Specifically, the Permittee shall ensure that:
 - 1. Maximum queuing of vehicles shall be limited to 15 vehicles on the entrance roadway.
 - 2. Limit the acceptance of waste to 4 trucks per hour during Facility operation.
 - 3. Schedule Facility bound trucks in no less than fifteen (15) minute intervals, in accordance with the O&MP.
- c. Ensure that all solid waste accepted is properly handled on-site, processed, stored and transported to markets or other solid waste processing or disposal facilities permitted to accept such solid waste.
- d. Ensure that any unacceptable solid waste inadvertently received, or solid waste which is unsuitable for processing at the Facility are: (1) promptly sorted, separated, isolated and temporarily stored in a safe manner prior to off-site transport; (2) recorded and reported in the quarterly report required by this permit; and (3) disposed at a facility lawfully authorized to accept such waste. A spare container shall be available for any storage emergency.
- e. Provide same day notification about any emergency incident (explosion, accident, fire, or other significant disruptive occurrence) which: (1) damaged equipment or structures; (2) interrupts the operation of the Facility for greater than 24 hours; or (3) results in an unscheduled Facility shutdown or forced diversion of solid waste to other solid waste facilities. Such notification required under this condition shall: (a) be done by phone, followed by a written report detailing the cause and effect of the incident, remedial steps taken and emergency backup used or proposed to be implemented; (b) shall be directed to Emergency Spill Reporting at (860) 424-3338 and the caller should specify that the supervisors of the Solid Waste Permit or Enforcement programs in Waste Engineering and Enforcement Division of the Bureau of Waste Management be notified of the call; and (c) be recorded in a log of emergency incidents reportable or not under this condition.
- f. Prevent the spillage of solid waste from transfer containers during on-site maneuvering/storage and off-site transport, and cover each loaded container before transportation off-site. Remove any litter from the Facility's premises and the surrounding properties on a daily basis.
- g. Instruct the haulers to maintain the containers covered during off-site transportation.
- h. Operate the Facility in a safe manner and control fire, odor, noise, spills, vectors, litter and dust emissions levels in continuous compliance with all applicable OSHA requirements.
- i. Process, store or otherwise handle at the Facility all solid waste received in such a manner as to avoid any spillage, nuisance and protect the public health and the environment.
- j. Maintain at the Facility's premises, and have available for review by the Commissioner, the manufacturer's operation and maintenance manuals for each major piece of fixed processing equipment (e.g. loader, scales, electronic devices) installed at the Facility.

11. The Permittee shall have an operator, certified pursuant to Section 22a-209-6 of RCSA, present at all times during Facility operation. All individuals under the supervision of such certified operators shall have sufficient training to identify waste received at the Facility which is not permitted to be received, or suitable for processing, and take proper action in handling such waste.
12. The Permittee shall maintain daily records as required by Section 22a-209-9(p) of RCSA and Sections 22a-208e and 22a-220 of CGS. Based on such records, the Permittee shall prepare monthly summaries including, but not limited to, the following information:
 - a. Origin, type and quantity of solid waste received.
 - b. Destination to which wastes from the Facility were delivered for disposal including quantities delivered to each destination.

The monthly summaries required pursuant this condition shall be submitted quarterly directly to the Waste Planning and Standards Division of the Bureau of Waste Management, no later than January 31, April 30, July 31, October 31, of each year on forms prescribed by the Commissioner.

13. Nothing herein authorizes any person, municipality or authority to hinder municipal or regional solid waste recycling efforts. All activities conducted by the Permittee at the Facility shall be in accordance with the documents submitted as part of the application and in compliance with the adopted Connecticut State Solid Waste Management Plan.
14. The date of submission to the Commissioner of any document required by this permit shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this permit, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three days after it is mailed by the Commissioner, whichever is earlier. Any document or action which is due or required on a Saturday, Sunday or a state/federal holiday shall be submitted or performed by the next business day thereafter.
15. Any document, including, but not limited to any notice, which is required to be submitted to the Commissioner under this permit shall be signed by a duly authorized representative of the Permittee, as defined in Section 22a-430-3(b)(2) of the RCSA, and by the individual or individuals responsible for actually preparing such documents, each of whom shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement in the submitted information may be punishable as a criminal offense." Any false statement in any document submitted pursuant to this permit may be punishable as a criminal offense in accordance with Section 22a-6 of the CGS, pursuant to Section 53a-157 of the CGS, and in accordance with any other applicable statute.

16. This permit is subject to, and in no way derogates from any present or future property rights or other rights or powers of the State of Connecticut and conveys no property rights in real estate or material, nor any exclusive privileges, and is further subject to, any and all public and private rights and to any federal, state or local laws or regulations pertinent to the Facility or activity affected thereby.

17. Prior to acceptance of solid waste, the Permittee shall post a \$255,000 closure surety bond as required by Section 22a-6(a)(7) of CGS in conjunction with the general requirements of Section 22a-209-4(i) of RCSA. The surety shall be posted to cover the third party cost for handling, transportation and disposal of the maximum amount of unprocessed/processed solid waste and residue permitted of being stored or accumulated before and after being processed at the Facility. The surety amount shall cover any cost of decontamination or disposal of equipment, and of processing/storage areas, if necessary. Such surety shall follow the requirements of Section 22a-209-4(i) of the RCSA, Federal Regulation 40 CFR 264.141 to 264.143 inclusive, and 40 CFR Section 264.151, as referenced therein. Appropriate language changes shall be made to reference the removal and disposal of such stored/accumulated solid waste, instead of landfill closure and monitoring. The Permittee shall adjust the amount of such surety bond within thirty (30) days after each anniversary date of the surety in accordance with the requirements of 40 CFR Section 264.142(b) as revised through March 12, 1990 in order to reflect inflation, and 40 CFR Section 264.142(c) as revised through March 12, 1990, whenever a change in the Facility's plan increases the permitted storage capacity, or otherwise increases the cost of closure.

18. Nothing in this permit shall affect the Commissioner's authority to institute any proceeding or to take any actions to prevent violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for violations of law.

19. Nothing in this permit shall relieve the Permittee of other obligations under applicable federal, state and municipal laws.

20. This Permit shall expire sixty (60) days from the date of issuance and may be revoked, suspended, modified, renewed, or transferred in accordance with applicable laws.

Issued on this ____ day of _____, 2002.

By _____
 Arthur J. Rocque, Jr.
 Commissioner

Solid Waste Temporary Permit to Operate No. xxxxxxxx-TPO
 Application No. xxxxxxxxx
 Permittee - Certified Mail # _____

ATTACHMENT C

TEMPORARY PERMIT TO OPERATE
DRAFT 07/16/02

PERMITTEE: Circle of Life, LLC
FACILITY ADDRESS: 158R Middletown Avenue, New Haven, CT
PERMIT NO. xxxxxxx-TPO

Pursuant to Section 22a-208a of the Connecticut General Statutes (“CGS”) and Section 22a-209-4 of the Regulations of Connecticut State Agencies (“RCSA”), and based on the Permit to Construct No. 0930544-PC issued on (to be entered upon permit issuance) by the Commissioner of Environmental Protection (“Commissioner”) to Circle of Life, LLC, a **TEMPORARY PERMIT TO OPERATE IS HEREBY ISSUED** by the Commissioner to Circle of Life, LLC (“Permittee”) to operate the solid waste volume reduction (“Facility”) located at 158R Middletown Avenue, New Haven, CT.

TERMS AND CONDITIONS

1. As used in this permit, the following definitions apply:

“Commissioner” means the Commissioner of the Department of Environmental Protection or his representative.

“Day” means calendar day.

“Department” means the Department of Environmental Protection.

“Construction and Demolition Waste” or “C&D waste” means waste from construction and demolition activities as defined in CGS Section 22a-208x.

“Clean Wood” means wood which does not constitute treated wood as defined below.

“Processing” means the practice by which either the physical characteristics or the volume of solid waste accepted at the Facility is being altered through waste consolidation and transfer operations.

“Recovered Materials” means processed solid wastes which are ultimately delivered to a market or other permitted recycling or reclamation facility.

“Residue” means all solid waste as defined in CGS Section 22a-207, other than recovered materials, remaining after handling and processing of the incoming waste stream.

2. The Permittee is authorized to operate the Facility only for the purpose of start-up, equipment shakedown and performance test, in accordance with all applicable law, and

all documents and specifications submitted as part of application No. **(to be entered upon permit issuance)**, including the following documents incorporated herein by reference:

- a. Application form dated June 8, 2000 with the following attachments: Executive Summary, Applicant Compliance Information, USGS Map with facility location, Background Information, Statement of Consistency with Solid Waste Management Plan, Business Information, Operation and Management Plan, Coastal Consistency review Form and other miscellaneous information.
- b. A set of seventeen (17) site drawings prepared by Clarence Blair Associates, Inc., Civil Engineers and Land Surveyors, New Haven, CT, fifteen (15) of which are dated September 19, 2000, one (1) is dated 6/25/97 and the last is dated 1/31/92, all of which were received by WEED on September 25, 2000.
- c. A letter from Mark Robinson Holland, CEO Burnside Facilities Group, Inc. dated April 23, 2001, addressed and hand-delivered to Joseph Faryniarz (DEP) on April 24, 2001, with attached materials clarifying WEED review letter dated March 15, 2001 including: (1) a four page replacement section on traffic; (2) copies of disposal facility agreements; (3) Plant Anomaly Matrix (used to identify incidents that may occur at the facility and to determine what responses may be required); (4) a current version of the Circle of Life Health and Safety Manual; and, (5) a discussion on dust control.
- d. A set of thirteen (13) engineering drawings prepared by Burnall Facilities Group, Inc. and certified by Robert H. Mansfield, P.E. which were received by WEED on September 6, 2001.
- e. A letter from Mark S. Bourgeois, III, CES, representative for Circle of Life, LLC to Charles Atkins (DEP) dated September 14, 2001, with information and calculations for Circle of Life, LLC surety.
- f. A letter from Mark Robinson Holland, CEO Burnall Facilities Group, Inc. dated September 17, 2001 to Joseph Faryniarz (DEP) revising hours of operation.
- g. A set of nine (9) engineering drawings prepared by Burnall Facilities Group, Inc. and certified by Robert H. Mansfield, P.E. received by WEED on June 24, 2002 as follows: Sheet U-1, dated 11/20/01 revised 3/02; Sheet U-2, dated 11/19/01 revised 3/02; Sheet U-4, dated 3/10/02; Sheet U-5, dated 3/10/02; Sheet U-6, dated 3/10/02; and Sheets C-5, C-6, C-7, C-8 dated 9/19/00 revised 3/02.
- h. Performance Protocol, dated and prepared by **(TO BE INSERTED WHEN SUBMITTED)**

The Permittee shall maintain records of all documents comprising and all data pertaining to the applications mentioned in this condition, as well as any supplemental information submitted to the Department in connection with such applications. Any inaccuracies found in the information submitted by the Permittee may result in revocation, reissuance, or modification of this permit and civil or criminal enforcement actions.

3. The Permittee shall comply with all terms and conditions of this permit. This permit consists of the conditions contained herein and the specifications contained in the application documents, except where such specifications are superseded by the more stringent conditions contained herein. Violation of any provision of this permit is subject

to enforcement action pursuant to Sections 22a-6, 22a-208, 22a-225 and 22a-226 of the CGS.

4. The Permittee shall make no changes to the specifications and requirements of this permit, except in accordance with law.
5. The Permittee is authorized to operate the Facility only for the purpose of start-up, equipment shakedown and performance test, in accordance with all applicable law, including this permit. Unless otherwise approved by the Commissioner, the facility will operate from 6:00 a.m. Monday through 12:00 a.m. Sunday and will not operate from 12:00 a.m. Sunday through 6:00 a.m. Monday.
6. The Permittee shall notify the Commissioner at a minimum five days before commencement of the performance test.
7. The Permittee shall submit to the Commissioner, within fifteen (15) days of completing the performance test, a report prepared and certified by the 3rd party engineer, whose qualifications were approved by the Commissioner. The report shall interpret, evaluate, compare and summarize the performance test results with respect to the Facility design capacities and test criteria established by the Test Protocol, as well as an executive summary containing his conclusion as to whether or not the Facility can operate as designed.
8. The Permittee shall receive and process at the Facility no more than a total of 2,378 tons/day (TPD) maximum of the following types of solid waste: C&D waste; utility poles; railroad ties; and landclearing debris. Storage shall be limited to the following specifications: (a) no more than 3,700 cubic yards (1,000 tons) of incoming solid waste unloaded and confined to the storage pit area; and (b) 8880 cubic yards (2,400 tons) of solid waste reloaded into no more than thirty (30) railcars. The Permittee shall not exceed the processing and storage limits established by this permit. Solid waste, other than those listed herein, shall not be accepted, processed, treated, stored, transported or disposed off-site, or otherwise processed at the Facility without prior written approval of the Commissioner.
9. The Permittee shall store/handle solid waste at the Facility in accordance with, but not limited to the following specifications:
 - a. Storage of processed/unprocessed solid waste (C&D waste; utility poles; railroad ties; and landclearing debris) shall take place indoors in the storage pit area within the building on-site or in no more than 30 railcars stored outdoors on-site. Outdoor storage in railcars shall not exceed 48 hours and shall take place only in railcars that are covered by secure tarpaulins.
10. The Permittee shall:
 - a. Store solid waste on-site in conformance with proper fire control measures. Routine maintenance and inspections of all fire control equipment shall be conducted in accordance with manufacturer's specifications.

- b. Control all traffic related with the operation of the Facility in such a way as to mitigate queuing of trucks on/off site and excessive traffic impact in the area where the Facility is located. Specifically, the Permittee shall ensure that:
 - 1. Maximum queuing of vehicles shall be limited to 15 vehicles on the entrance roadway.
 - 2. Limit the acceptance of waste to 4 trucks per hour during Facility operation.
 - 3. Schedule Facility bound trucks in no less than fifteen (15) minute intervals, in accordance with the O&MP.
- c. Ensure that all solid waste accepted is properly handled on-site, processed, stored and transported to markets or other solid waste processing or disposal facilities permitted to accept such solid waste.
- d. Ensure that any unacceptable solid waste inadvertently received, or solid waste which is unsuitable for processing at the Facility are: (1) promptly sorted, separated, isolated and temporarily stored in a safe manner prior to off-site transport; (2) recorded and reported in the quarterly report required by this permit; and (3) disposed at a facility lawfully authorized to accept such waste. A spare container shall be available for any storage emergency.
- e. Provide same day notification about any emergency incident (explosion, accident, fire, or other significant disruptive occurrence) which: (1) damaged equipment or structures; (2) interrupts the operation of the Facility for greater than 24 hours; or (3) results in an unscheduled Facility shutdown or forced diversion of solid waste to other solid waste facilities. Such notification required under this condition shall: (a) be done by phone, followed by a written report detailing the cause and effect of the incident, remedial steps taken and emergency backup used or proposed to be implemented; (b) shall be directed to Emergency Spill Reporting at (860) 424-3338 and the caller should specify that the supervisors of the Solid Waste Permit or Enforcement programs in Waste Engineering and Enforcement Division of the Bureau of Waste Management be notified of the call; and (c) be recorded in a log of emergency incidents reportable or not under this condition.
- f. Prevent the spillage of solid waste from transfer containers during on-site maneuvering/storage and off-site transport, and cover each loaded container before transportation off-site. Remove any litter from the Facility's premises and the surrounding properties on a daily basis.
- g. Instruct the haulers to maintain the containers covered during off-site transportation.
- h. Operate the Facility in a safe manner and control fire, odor, noise, spills, vectors, litter and dust emissions levels in continuous compliance with all applicable OSHA requirements.
- i. Process, store or otherwise handle at the Facility all solid waste received in such a manner as to avoid any spillage, nuisance and protect the public health and the environment.
- j. Maintain at the Facility's premises, and have available for review by the C Commissioner, the manufacturer's operation and maintenance manuals for each major piece of fixed processing equipment (e.g. loader, scales, electronic devices) installed at the Facility.

11. The Permittee shall have an operator, certified pursuant to Section 22a-209-6 of RCSA, present at all times during Facility operation. All individuals under the supervision of such certified operators shall have sufficient training to identify waste received at the Facility which is not permitted to be received, or suitable for processing, and take proper action in handling such waste.
12. The Permittee shall maintain daily records as required by Section 22a-209-9(p) of RCSA and Sections 22a-208e and 22a-220 of CGS. Based on such records, the Permittee shall prepare monthly summaries including, but not limited to, the following information:
 - a. Origin, type and quantity of solid waste received.
 - b. Destination to which wastes from the Facility were delivered for disposal including quantities delivered to each destination.

The monthly summaries required pursuant this condition shall be submitted quarterly directly to the Waste Planning and Standards Division of the Bureau of Waste Management, no later than January 31, April 30, July 31, October 31, of each year on forms prescribed by the Commissioner.

13. Nothing herein authorizes any person, municipality or authority to hinder municipal or regional solid waste recycling efforts. All activities conducted by the Permittee at the Facility shall be in accordance with the documents submitted as part of the application and in compliance with the adopted Connecticut State Solid Waste Management Plan.
14. The date of submission to the Commissioner of any document required by this permit shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this permit, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three days after it is mailed by the Commissioner, whichever is earlier. Any document or action which is due or required on a Saturday, Sunday or a state/federal holiday shall be submitted or performed by the next business day thereafter.
15. Any document, including, but not limited to any notice, which is required to be submitted to the Commissioner under this permit shall be signed by a duly authorized representative of the Permittee, as defined in Section 22a-430-3(b)(2) of the RCSA, and by the individual or individuals responsible for actually preparing such documents, each of whom shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement in the submitted information may be punishable as a criminal offense." Any false statement in any document submitted pursuant to this permit may be punishable as a criminal offense in accordance with Section 22a-6 of the CGS, pursuant to Section 53a-157 of the CGS, and in accordance with any other applicable statute.

16. This permit is subject to, and in no way derogates from any present or future property rights or other rights or powers of the State of Connecticut and conveys no property rights in real estate or material, nor any exclusive privileges, and is further subject to, any and all public and private rights and to any federal, state or local laws or regulations pertinent to the Facility or activity affected thereby.
17. Prior to acceptance of solid waste, the Permittee shall post a \$255,000 closure surety bond as required by Section 22a-6(a)(7) of CGS in conjunction with the general requirements of Section 22a-209-4(i) of RCSA. The surety shall be posted to cover the third party cost for handling, transportation and disposal of the maximum amount of unprocessed/processed solid waste and residue permitted of being stored or accumulated before and after being processed at the Facility. The surety amount shall cover any cost of decontamination or disposal of equipment, and of processing/storage areas, if necessary. Such surety shall follow the requirements of Section 22a-209-4(i) of the RCSA, Federal Regulation 40 CFR 264.141 to 264.143 inclusive, and 40 CFR Section 264.151, as referenced therein. Appropriate language changes shall be made to reference the removal and disposal of such stored/accumulated solid waste, instead of landfill closure and monitoring. The Permittee shall adjust the amount of such surety bond within thirty (30) days after each anniversary date of the surety in accordance with the requirements of 40 CFR Section 264.142(b) as revised through March 12, 1990 in order to reflect inflation, and 40 CFR Section 264.142(c) as revised through March 12, 1990, whenever a change in the Facility's plan increases the permitted storage capacity, or otherwise increases the cost of closure.
18. Nothing in this permit shall affect the Commissioner's authority to institute any proceeding or to take any actions to prevent violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for violations of law.
19. Nothing in this permit shall relieve the Permittee of other obligations under applicable federal, state and municipal laws.
20. This Permit shall expire sixty (60) days from the date of issuance and may be revoked, suspended, modified, renewed, or transferred in accordance with applicable laws.

Issued on this _____ day of _____, 2002.

By _____
Arthur J. Rocque, Jr.
Commissioner

Solid Waste Temporary Permit to Operate No. xxxxxxxx-TPO
Application No. xxxxxxxxx
Permittee - Certified Mail # _____