

**STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION**



OFFICE OF ADJUDICATIONS

IN THE MATTER OF : *STEWARDSHIP PERMIT
NO. DEP/HWM/CS-134-003*

STRATFORD ARMY ENGINE PLANT : *OCTOBER 2, 2008*

PROPOSED FINAL DECISION

In an August 1, 2008 notice, the DEP tentatively determined it would issue a Stewardship Permit to the applicant to facilitate environmental cleanup, closure and monitoring activities at the Stratford Army Engine Plant in Stratford. General Statutes §§22a-6, 22a-6h, 22a-449(c) and Regs., Conn. State Agencies §§22a-449(c)-110 and §§22a-133(k)-2(f)(2). The hearing in this matter was conducted and concluded on September 10, 2008. The record was left open until September 15 for the receipt of written comments from the public. No comments were received.

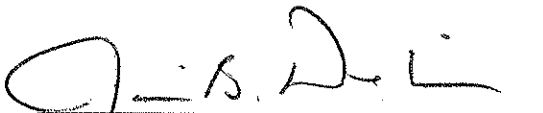
The applicant, the DEP, and the intervenor have signed and filed a revised agreed draft decision¹ for my consideration and adoption as my proposed final decision. Regs., Conn. State Agencies §22a-3a-6(3)(A)(i). The parties and the intervenor have also submitted an agreement to waive the 15-day period for the filing of exceptions to my decision. §22a-3a-6(y)(3)(A).

I have reviewed the agreed draft decision and the record in this matter, including the application and documentation relevant to the tentative determination and the draft permit. I have also reviewed the testimony of the applicant and the DEP, both in writing and as presented at the hearing. Based on this review, I find that the application and proposed draft permit meet the applicable statutory and regulatory requirements.

¹ The applicant submitted revisions that are included in the agreement.

The agreed draft decision submitted by the parties sufficiently states the findings of fact and conclusions of law necessary to support my conclusion. Its fifteen findings of fact are supported in the record, particularly applicant's exhibit 1, the permit application, and DEP exhibits 2, 4 and 6, the tentative determination, the permit fact sheet, and a copy of the draft permit. Correspondence from the U.S. EPA (indicating it has no comment) is in the record as DEP exhibit 14, as is documentation of compliance with notification requirements by the DEP (DEP exhibits 1, 3 and 5).

Based on this complete record and the parties' clear and concise presentation of the issues at issue in this matter, I accept the attached agreed draft decision and adopt it as my proposed final decision. I therefore recommend that this Stewardship Permit be issued without delay.



Janice B. Deshais, Hearing Officer

APPENDIX A

IN THE MATTER OF : OFFICE OF ADJUDICATIONS
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STEWARDSHIP PERMIT FOR :
STRATFORD ARMY ENGINE PLANT : SEPTEMBER 30, 2008

REVISED AGREED DRAFT DECISION

I. SUMMARY

Pursuant to Section 22a-3a-6(1)(3)(A)(ii) of the Regulations of Connecticut State Agencies (the "Regulations"), the Applicant, the United States Army (the "Army"), and staff of the State of Connecticut Department of Environmental Protection (the "Department"), hereby respectfully submit this Agreed Draft Decision ("ADD"). This ADD sets forth the resolution stipulated to by the above mentioned parties, to the above referenced matter, the issuance of a Stewardship Permit to the Army for the property located at 550 Main Street in the Town of Stratford, known as the Stratford Army Engine Plant ("SAEP"). The stipulated permit (the "Permit"); appears as Attachment A to this ADD. The Permit incorporates revisions to the draft permit that was provided for public notice on August 1, 2008, in the Notice of Tentative Determination ("NTD"), as required by Section 22a-449(c)-100 of the Regulations. During the required 45 -day public notice period, one request to intervene was submitted pursuant to Section 4-177a(b) of the Connecticut General Statutes (CGS), and

Section 22a-3a-6(k) of the Regulations, on behalf of Hollywood East/Area 51, LLC (“Hollywood East”).

A public hearing was held on September 10, 2008, at 7:30 p.m. at the Baldwin Center in the Town of Stratford. The public notice for the public hearing was provided in conjunction with the NTD on August 1, 2008.

The submission of this ADD is intended to satisfy the Post-Hearing Directive dated September 11, 2008, issued by Hearing Officer Ms. Janice Deshais.

II FINDINGS OF FACT

1. SAEP is a facility located at 550 Main Street in the Town of Stratford. Operations were conducted at the facility for over 60 years and consisted of the development and manufacturing of aircraft engines as well as airplane, helicopter and tank piston and turbine engines. In October 1995 the Base Realignment and Closure Committee recommended that SAEP be closed. On site operations ceased in 1997.
2. Section 22a-449(c)-110 of the Regulations incorporates by reference Title 40 of the Code of Federal Regulations (“CFR”) Part 270. In turn 40 CFR 270 references 40 CFR 264, which outlines specific requirements for corrective action at a Resource Conservation and Recovery Act (“RCRA”) facility.
3. On November 19, 1980, a RCRA Part A permit application in accordance with RCRA, for an operating hazardous waste treatment, storage or disposal facility was submitted to the United States Environmental Protection Agency (“US EPA”). The

application was submitted by AVCO Corporation, the operator at the time. The submittal of the RCRA Part A permit application placed the facility in interim status.

4. Interim Status denotes that the facility is in the queue for issuance of an operating permit. The facility ceased operating prior to an operating permit being issued. In accordance with 40 CFR 270.73(a), issuance of the Permit will terminate the Interim Status of the facility.

5. The Department has created the Stewardship Permit to address cases such as these, where a facility is in interim status but no longer operates. The Permit (Attachment A) is a Stewardship Permit.

6. The Permit sets forth certain requirements of the permittee, including Corrective Action, Closure and Post-Closure care of a RCRA facility, and Financial Assurance. These requirements are delineated in 40 CFR Part 264 specifically Subparts F, G and H. 40 CFR 264 is referenced by 40 CFR 270 which is incorporated by reference in Section 22a-449(c)-100 et seq. of the Regulations. Pursuant to 40 CFR 264.140(c), the Army is exempt from the Financial Assurance provisions of 40 CFR Part 264, Subpart H. Public Participation is also a required element of the Permit as set forth in RCRA (Title 42, Chapter 82, Subchapter VII, Section 6974(b)).

7. The Army submitted "application" materials on September 3, 2008, during the formal comment period. These application materials in effect are administratively required paperwork and the associated fee that enables the Department to process the RCRA Part A application submitted in 1980 and issue the Permit.

8. The Permit provides a framework for measures of progress required of the permittee in the performance of corrective action or clean-up of the facility: 1. The permit has built into it reporting requirements that document the progress of the clean-up and memorialize those remediation measures taken and the results achieved; 2. The permit outlines those long-term obligations of the permittee that must be met in order for the facility to be remediated and subsequent long-term ground water monitoring to ensure the remediation has been successful; 3. The permit allows for the phasing in of financial assurance obligations of the permittee; this will take effect when the permit is transferred to another entity that is not the Army or a governmental entity; and 4. The permit documents the ultimate clean-up of the facility and any pollution emanating from the facility.

9. The Permit may be transferred with the authorization of the Commissioner. When and if the property ownership is transferred, the permit may also be transferred from the seller to the buyer. With the transfer of the permit, the obligations under the permit are also transferred.

10. This will be the third Stewardship Permit issued by the Department, and the US EPA supports the issuance of these permits to achieve compliance with RCRA corrective action. The U.S. EPA has reviewed the draft permit and submitted a letter noting they have no comments on the Permit.

11. On September 5, 2008, Hollywood East submitted a Petition to Intervene. The petition cited CGS Section 4-177a(b) and Section 22a-3a-6(k) of the Regulations as providing Hollywood East the administrative path for the petition. Since Hollywood

East's predecessor-in-interest participated in an Invitation For Bid (IFB), for the opportunity to purchase the SAEP property for private development, and Hollywood East's predecessor-in-interest won the IFB. Further, since currently Hollywood East is the prospective purchaser of the subject property Hollywood East in its petition made the claim that the outcome of these proceedings have the potential to "...significantly impact Hollywood East's rights and obligations..." in the future should the purchase proceed.

12. At 6:00 p.m. on September 10, 2008, a public informational session was held at the Baldwin Center in the Town of Stratford. The U.S. Army and the Department participated by making brief presentations that provided the historical context for the proposed Permit. Also in attendance were representatives of Hollywood East, elected officials and the general public.

13. After the brief presentations the opportunity was presented to those present to ask questions and make statements.

14. After a short recess the formal public hearing was called to order shortly after 7:30 p.m. At which point Mr. Lederle of the U.S. Army made an opening statement on the record. Mr. Lederle was followed by Ms. Duva of the Department providing the opening statement for the Department. Hearing Officer Ms. Deshais then provided the opportunity for interested persons to provide formal comment on the record.

15. No comment was provided in opposition to the Permit either during the public hearing or during the 45-day public comment period.

III. CONCLUSIONS OF LAW.

1. The RCRA Part A permit application submitted by AVCO Corporation on November 19, 1980, was submitted in accordance with Section 22a-449(c)-110 of the Regulations which incorporates by reference 40 CFR 270.

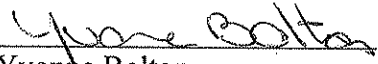
2. The Permit was drafted and revised, after formal comments were received and reviewed, under the authority of CGS Sections 22a-6, 22a-449(c), and 22a-454, the Memorandum of Agreement between the United States Environmental Protection Agency (US EPA), and the State of Connecticut, dated September 4, 2004, as codified in the Federal Register on September 28, 2004, under the title Connecticut: Final Authorization of State Hazardous Waste Management Program Revisions, including RCRA Corrective Action. Further the proposed permit was drafted in accordance with Section 22a-449(c) of the Regulations which incorporates 40 CFR 270.

IV. RECOMMENDATION

Pursuant to Section 22a-3a-6(1)(3)(A)(i) the US Army and the Department submit this ADD. For all the foregoing reasons and pursuant to Section 22a-3a-6(1)(3)(A)(ii) of the Regulations, it is respectfully recommended that this Agreed Draft Decision be accepted by the Hearing Officer and recommended to the Commissioner for adoption as her Final Decision, thereby resolving this matter.

State of Connecticut
Department of Environmental Protection

Applicant
US Army


Yvonne Bolton
Chief
Bureau of Materials Management and
Compliance Assurance
79 Elm Street Hartford, CT 06106

Name
Title
Mailing Address

Intervenor
Hollywood East/Area 51, LLC

Mauro Gabriele
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Mailing Address

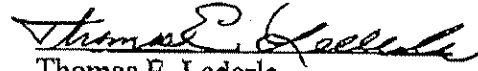
IV. RECOMMENDATION

Pursuant to Section 22a-3a-6(1)(3)(A)(i) the U.S. Army and the Department submit this ADD. For all the foregoing reasons and pursuant to Section 22a-3a-6(1)(3)(A)(ii) of the Regulations, it is respectfully recommended that this Agreed Draft Decision be accepted by the Hearing Officer and recommended to the Commissioner for adoption as her Final Decision, thereby resolving this matter.

State of Connecticut
Department of Environmental Protection

Applicant
Stratford Army Engine Plant

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Intervenor
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Mauro Gabriele
Title
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DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF MATERIALS MANAGEMENT
AND COMPLIANCE ASSURANCE
WASTE ENGINEERING AND REMEDIATION

IV. RECOMMENDATION

Pursuant to Section 22a-3a-6(l)(3)(A)(i) the U.S. Army and the Department submit this ADD. For all the foregoing reasons and pursuant to Section 22a-3a-6(l)(3)(A)(ii) of the Regulations, it is respectfully recommended that this Agreed Draft Decision be accepted by the Hearing Officer and recommended to the Commissioner for adoption as her Final Decision, thereby resolving this matter.

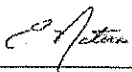
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Intervenor
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Ed Natera
Manager, Duly Authorized
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CERTIFICATION

I hereby certify that a copy of the foregoing **Agreed Draft Decision** was delivered on this 30th day of September, 2008, to the following:

Via Facsimile

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Attorney Douglas A. Cohen
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Via Hand Delivery

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Diane Duva - DEP
Lauren Kostiuk - DEP
Kenneth Feathers - DEP

for Diane W. Duva, Assistant Director
Gabrielle Frigon
Supervising Environmental Analyst
Waste Engineering and
Enforcement Division
Bureau of Materials Management and
Compliance Assurance

P A R T Y L I S T

In the Matter of Stratford Army Engine Plant
Stewardship permit No. DEP/HWM/CS-134-003

PARTY

REPRESENTED BY

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