



STATE OF CONNECTICUT  
VS  
NEWTOWN TRANSLOAD, LLC

CONSENT ORDER # 2014003DEEP

DATE ISSUED: December 4, 2014

A. With the agreement of Newtown Transload, LLC (“Respondent”), the Commissioner of Energy and Environmental Protection (“Commissioner”) finds:

1. Housatonic Railroad Company, Inc. (“Housatonic Railroad”) is a specially chartered Connecticut railroad corporation that owns property located at 30 Hawleyville Road, Newtown, Connecticut (“site”), shown on Map No. 5, Block No. 9, Lot No. 21 in the Newtown’s Tax Assessor’s Office and is more fully described in a deed in Book 957 on page 1045 in the Town of Newtown Land Records.
2. Newtown Transload, LLC is a limited liability company which engaged in the operation of a solid waste facility as its principal business at 30 Hawleyville Road, Newtown, Connecticut (“site”), shown on Map No. 5, Block No. 9, Lot No. 21 in the Newtown’s Tax Assessor’s Office and is more fully described in a deed in Book 957 on page 1045 in the Town of Newtown Land Records.

**STORMWATER FINDINGS**

3. On April 9, 2010, an inspection of the site was conducted by the Department of Energy and Environmental Protection (“Department”), Water Permitting and Enforcement Division (“WPED”). Based upon that inspection, the following violations of the General Permit for the Discharge of Stormwater Associated with Industrial Activity (“general permit”), issued on October 1, 2007 and as subsequently reissued pursuant to Section 22a-430b of the Connecticut General Statutes (“CGS”), were found:
  - a. Failed to register for the general permit in accordance with Section 4 of the general permit;
  - b. Failed to prepare, implement, and keep onsite a Pollution Prevention Plan (“PPP”) in accordance with Section 5(b) of the general permit;

9. On February 1, 2012, Respondent informed the Department of the cessation of solid waste transfer activities as of December 26, 2011 and surrendered general permit coverage under Permit No. GSI002264.
10. On May 2, 2013, Respondent submitted correspondence and photo-documentation verifying the removal of solid waste from the site.
11. On September 24, 2013, WPED staff inspected the site and confirmed stabilization of the site and completion of stormwater management remedies.
12. By virtue of the above, Respondent has created or maintained a facility, or condition which can reasonably be expected to create a source of pollution to the waters of the State and has violated the general permit issued under Section 22a-430b of the CGS.

#### **SOLID WASTE FINDINGS**

13. On or before October 16, 2008, Housatonic Railroad operated a solid waste facility at the site.
14. On October 16, 2008, the Federal Clean Railroads Act of 2008 was enacted.
15. On April 14, 2009, Housatonic Railroad submitted application No. 200901096 for a solid waste volume reduction plant and transfer station at the site.
16. On April 9, 2010, the Department conducted an inspection at the site and determined that Respondent had:
  - a. Failed to unload waste only within an enclosed structure as required by Section 22a-209-9(h) of the Regulations of Connecticut State Agencies ("RCSA"); and
  - b. Failed to keep the solid waste facility and the adjacent area clean and reasonably free of litter as required by Section 22a-209-9(i) of the RCSA;
17. On July 22, 2010, the Department issued NOV No. WSWDS10081 to Respondent for violations determined during the inspection described in paragraph A.16. of this Consent Order.
18. On August 23, 2010, Respondent Newtown Transload submitted a response for NOV No. WSWDS10081.
19. On September 30, 2011, the Department inspected the site. During the inspection, the Department determined that Respondent had:

- B. With the agreement of Respondent and the Commissioner acting under CGS Sections 22a-6, 22a-208, 22a-225, 22a-226, 22a-424, 22a-425, 22a-430, 22a-430b, 22a-431, 22a-432, 22a-433, and 22a-438 orders Respondent to address stormwater general permit violations and solid waste violations described in paragraphs A.3. through A.23., as follows:

**STORMWATER AND SOLID WASTE REQUIREMENTS**

1. **Status of Notice of Violation No. WR SW 10 005 issued to Respondent.** This Consent Order supersedes and closes Notice of Violation No. WR SW 10 005 issued to Respondent on July 6, 2010.
2. **Status of Notice of Violation No. WR SW 11 147 issued to Respondent.** This Consent Order supersedes and closes Notice of Violation No. WR SW 11 147 issued to Respondent on November 4, 2011.
3. **Compliance.** Respondent shall maintain compliance with all solid waste management statutes and regulations.
4. **Status of Notice of Violation No. WSWDS10081 issued to Respondent.** This Consent Order supersedes and closes NOV No. WSWDS10081, issued on July 22, 2010.
5. **Status of Notice of Violation No. WSWDS11075 issued to Respondent.** This Consent Order supersedes and closes NOV No. WSWDS11075, issued on October 14, 2011.
6. **Full compliance.** Respondent shall not be considered in full compliance with this Consent Order until all actions required by this Consent Order have been completed as approved and to the satisfaction of the Commissioner.
7. **Civil Penalty.** Respondent shall pay a penalty of three thousand twenty dollars (\$3,020.<sup>00</sup>) as the total civil penalty to be sought by the Commissioner for those, and only those violations described in paragraphs A.3. through A.23. of this Consent Order. Payment of the penalty shall be made in two installments: the first installment of \$1,510 is due on or before thirty (30) days of the issuance of this Consent Order and the second payment of \$1,510 is due on or before six (6) months of the issuance of this Consent Order. Payment shall be made in accordance with provisions of paragraph B.8. of this Consent Order.
8. **Payment of penalties.** Payment of the penalties referenced in paragraph B.7. of this Consent Order shall be mailed or personally delivered to Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127, and shall be by certified or bank check payable to "Treasurer, State of Connecticut". The check shall state on its face, "Bureau of Materials Management and Compliance

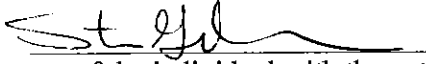
"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under Section 53a-157b of the Connecticut General Statutes and any other applicable law.

13. **Noncompliance.** This Consent Order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this Consent Order may subject Respondent to an injunction and penalties.
14. **False statements.** Any false statement in any information submitted pursuant to this Consent Order may be punishable as a criminal offense under Section 53a-157b of the CGS and any other applicable law.
15. **Notice of transfer; liability of Respondent.** Until Respondent has fully complied with this Consent Order, Respondent shall notify the Commissioner in writing no later than fifteen (15) days after transferring all or any portion of the business which is the subject of this Consent Order or after obtaining a new mailing or location address. Respondent's obligations under this Consent Order shall not be affected by the passage of title to any property to any other person or municipality.
16. **Commissioner's powers.** Nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this Consent Order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate violations or pollution.
17. **Respondent's obligations under law.** Nothing in this Consent Order shall relieve Respondent of other obligations under applicable federal, state and local law.
18. **No assurance by Commissioner.** No provision of this Consent Order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this Consent Order will result in compliance or prevent or abate pollution.

Respondent consents to the issuance of this Consent Order without further notice.  
"The undersigned certifies that he/she is fully authorized to enter into this Consent Order  
and to legally bind the Respondent to the terms and conditions of the Consent Order."

Date

Newtown Transload, LLC

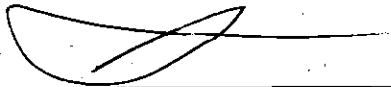
By:   
(Signature of the individual with the authority to bind Respondent to the terms of this  
Consent Order)

STEPHEN Goldblum  
Name (typed)

manager  
Title

11/3/14  
Date

Issued as a final order of the Commissioner of Energy and Environmental Protection.



Macky McCleary  
Deputy Commissioner

Date

12/3/14

CONSENT ORDER NO. 9474710200793437809351  
Newtown Land Records