

STATE OF CONNECTICUT

v.

George Jung, and
Peppertree LLC

CONSENT ORDER # 2017005DEEP

Date Issued December 11, 2017

- A. With the agreement of George Jung (“Respondent George Jung”) and Peppertree LLC (“Respondent Peppertree LLC”), collectively (“Respondents”), the Commissioner of Energy and Environmental Protection (“Commissioner”) finds:
1. Respondent George Jung was conducting site activities, including timber harvesting, on property located at 117 Ashford Road in Eastford, CT (the “Site”), shown in book 66, page 813 in the Eastford Tax Assessors Office. The Site is owned by Respondent Peppertree LLC, a Rhode Island limited liability company, and Respondent George Jung was conducting these activities on the Site with the permission of its owner. The Site abuts property owned by the State of Connecticut and its Department of Energy and Environmental Protection (“DEEP”), which comprises a portion of the Natchaug State Forest (the “DEEP Property”).
 2. Respondents encroached and harvested within the Natchaug State Forest without authorization. Natchaug State Forest encompasses more than 12,000 acres spanning over eight towns in the northern half of Windham County. Natchaug State Forest is broken into eight management “blocks”. The Bigelow Brook Block, where Respondents unauthorized harvesting occurred, is approximately 850 acres. The specific area of the DEEP property where the Respondents harvested without authorization has a 30 year history of silvicultural activities guided by professional foresters. These professional foresters perform prescribed harvesting designed to significantly enhance forest health, growth and wildlife habitat. The primary age class of the trees in this area are 80 to 120 years.
 3. In July 2016, Respondents crossed the DEEP Property line and harvested seven (7) trees from the DEEP Property in the Bigelow Brook Block and severely damaged seven (7) additional trees and other vegetation on the DEEP Property during its operation. The Respondents also damaged a stone wall that marks the boundary between the Site and the DEEP Property while removing the trees from the DEEP Property.

4. Neither of the Respondents had permission from DEEP to remove any trees from the DEEP Property.
5. On August 10 and 19, 2016, DEEP Foresters conducted inspections to determine the species, number of trees, diameter at breast height (measured at 4.5 feet from ground), merchantable height (measured in 16 foot logs) and the volume of forest products of the trees cut or damaged by Respondents. The DEEP Foresters determined that seven (7) trees were illegally harvested and seven (7) trees sustained significant damage as a result of the harvest. The inspection concluded that the cut or damaged trees contained a total of 4,609 board feet and 10.5 tons of wood chips. During the inspection DEEP Foresters determined that all of the damaged trees were due to Respondents' actions.
6. On August 22, 2016, State Environmental Conservation Police Officer Bill Vroman and DEEP Division of Forestry Program Specialist Doug Emmerthal met with Respondent George Jung at DEEP Property in the Bigelow Brook Block, at which time Respondent George Jung acknowledged responsibility for the damages described in paragraph A.3 above.
7. On March 9, 2017, the DEEP Waste Engineering and Enforcement Division ("WEED") inspected the Site and found the following violations as identified in a report dated March 16, 2017:
 - a) Respondents established, constructed and/or operated a solid waste facility at the Site without a respective permit issued by the Commissioner in accordance with § 22a-208a of the Connecticut General Statutes ("CGS") in violation of § 22a-208a(b) and § 22a-208c of the CGS and § 22a-209-4 of the Regulations of Connecticut State Agencies ("RCSA"). Specifically, DEEP found greater than ten cubic yards of land clearing debris had been disposed of at the Site for longer than forty-five (45) days without the required permit.
8. On May 9, 2017, WEED issued Notice of Violation No. WSWDS17023 (the "NOV") to Respondent Peppertree LLC requiring correction of the violations cited in paragraph A.7. of this Consent Order.
9. On May 24, 2017, WEED received a submittal via electronic mail from Respondent George Jung that was responsive to the NOV. Respondent George Jung represented that Respondent(s) have corrected all violations in the NOV.
10. By virtue of the above, Respondents have violated CGS § 22a-208a(b), § 22a-208c and §52-560 and RCSA § 22a-209-4.

B. With the agreement of Respondents, the Commissioner, acting under CGS §§ 22a-5, 22a-5a, 22a-6, 22a-208, 22a-225, 22a-226, 23-5, and 52-560 orders as follows:

1. Respondents shall bring all violations identified in paragraph A. above into compliance and maintain its compliance with all applicable provisions of CGS §§ 22a-208a(b) and 22a-208c and RCSA § 22a-209-4.
2. Future Compliance. On or before sixty (60) days from the date of issuance of this Consent Order, Respondents shall submit to the Commissioner, for his review and written approval, a plan which details the specific actions and/or operational changes to be instituted by Respondents to ensure future compliance with the Solid Waste Management Regulations, RCSA § 22a-209, et. seq. Within five (5) days after the Commissioner approves such plan, Respondent shall carry out the plan and maintain it in full effect thereafter.
3. Full compliance. Respondents shall not be considered in full compliance with this Consent Order until all actions required by this Consent Order have been completed to the Commissioner's satisfaction.
4. Civil penalty. On or before thirty (30) days after the issuance of this Consent Order, Respondents shall pay a penalty of six thousand dollars (\$6,000) as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraph A.3 and A.7 of this Consent Order. The penalty shall be paid in accordance with the provisions of paragraph B.5.
5. Payment of penalties. Payment of the penalties under 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 "Connecticut Department of Energy and Environmental Protection". The check shall state on its face, "Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement and Forestry Division Civil Penalty, and the consent number identified on the first page of this Consent Order. A copy of the check and any transmittal letter shall also be sent to Ms. Julie Dutton in the Bureau of Materials Management and Compliance Assurance at the same address. A copy of the check and any transmittal letter shall also be sent to Ms. Sheila Hoefle in the Bureau of Natural Resources at the same address.
6. Approvals. Respondents shall use best efforts to submit to the Commissioner all documents required by this Consent Order in a complete and approvable form. If the Commissioner notifies Respondents that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondents shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty (30) days of the Commissioner's notice of deficiencies. In approving any document or other action under this Consent Order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Consent Order. Nothing in this paragraph shall excuse noncompliance or delay.

7. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
8. Dates. The date of "issuance" of this Consent Order is the date the Consent Order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this Consent Order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this Consent Order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this Consent Order, the word "day" as used in this Consent Order means calendar day. Any document or action which is required by this Consent Order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.
9. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Consent Order shall be signed by Respondents or, if Respondents is not an individual, by Respondents' chief executive officer or a duly authorized representative of such officer, as those terms are defined in §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and each such individual 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 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 §53a-157b of the Connecticut General Statutes and any other applicable law."
10. Noncompliance. This Consent Order is a final order of the Commissioner with respect to the matters addressed herein, and is non-appealable and immediately enforceable.
11. False statements. Any false statement in any information submitted pursuant to this Consent Order may be punishable as a criminal offense under Conn. Gen. Stat. § 53a-157b of the Connecticut General Statutes and any other applicable law.
12. Notice of transfer; liability of Respondents. Until Respondents have fully complied with this Consent Order, Respondents shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this Consent Order or after obtaining a new mailing or location address. Respondents' obligations under this Consent Order shall not be affected by the passage of title to any property to any other person or municipality.

13. 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, 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 Respondents pursuant to this Consent Order have not successfully corrected all violations, the Commissioner may institute any proceeding to require Respondents to undertake further investigation or further action to prevent or abate violations.
14. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the facility or the site without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.
15. Respondents' obligations under law. Nothing in this Consent Order shall relieve Respondents of other obligations under applicable federal, state and local law.
16. 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 Respondents pursuant to this Consent Order will result in compliance.
17. No effect on rights of other persons. This Consent Order neither creates nor affects any rights of persons or municipalities that are not parties to this Consent Order.
18. Notice to Commissioner of changes. Within 15 days of the date Respondents becomes aware of a change in any information submitted to the Commissioner under this Consent Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondents shall submit the correct or omitted information to the Commissioner.
19. Notification of noncompliance. In the event that Respondents becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this Consent Order or of any document required here under, Respondents shall immediately notify by telephone the appropriate Division individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, Respondents shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose for the review and written approval of the Commissioner, dates by which compliance will be achieved and Respondents shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondents shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

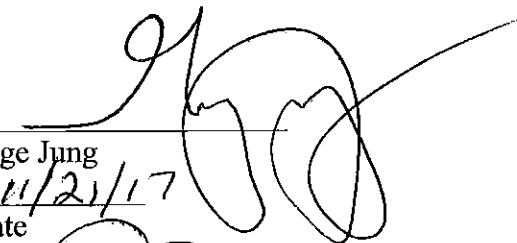
20. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order pursuant to paragraphs B.1. shall, unless otherwise specified in writing by the Commissioner, be directed to:

Darlene Sage, Environmental Analyst
Department of Energy and Environmental Protection
Bureau of Materials Management and Compliance Assurance
79 Elm Street, Hartford, Connecticut 06106-5127


21. Joint and Several Liability. Respondents shall be jointly and severally liable for compliance with this Consent Order.

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Respondents consent 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 Respondents to the terms and conditions of the Consent Order.




George Jung
11/21/17
Date



Peppertree LLC
11/21/17
Date

Issued as a final Consent Order of the Commissioner of the Department of Energy and Environmental Protection on Dec. 11th, 2017.



Robert J. Klee
Commissioner

12/11/2017
Date

Enclosure

CONSENT ORDER NO. 2017005DEEP

Town of Eastford Land Records