



**STATE OF CONNECTICUT**

v.

**EJC, LLC,**

**CONNECTICUT RECYCLING & COMPOSTING, LLC, and**

**ALEXANDER CUZZOCREO**

**CONSENT ORDER NO. DEEP 2017006**

**Date Issued: January 16, 2018**

- A. With the agreement of EJC, LLC ("Respondent EJC"), Connecticut Recycling & Composting, LLC ("Respondent CRC"), and Alexander Cuzzocreo ("Respondent Cuzzocreo") (collectively referred to as the "Respondents"), the Commissioner of Energy and Environmental Protection (the "Commissioner") finds:
1. Respondent EJC is a domestic limited liability company registered to do business in Connecticut with the Connecticut Secretary of the State.
  2. Respondent EJC's registered business address listed with the Connecticut Secretary of the State is 34 Prindle Road, West Haven, Connecticut 06516. Respondent EJC's owner listed on the Connecticut Secretary of the State registration is Respondent Cuzzocreo, whose business address listed with the Connecticut Secretary of the State is 30 Prindle Road, West Haven, Connecticut.
  3. Respondent EJC is the owner of property located at 0 Edison Road, Orange, Connecticut and more fully described as Assessor's Map 23, Block 4 and Lot 1 and in a deed recorded at Vol. 605, Page 433 on the land records of the Town of Orange, Connecticut ("the site"). Respondent EJC has owned the site since March 23, 2011.
  4. Respondent CRC is a domestic limited liability company registered to do business in Connecticut with the Connecticut Secretary of the State. Respondent CRC's name as listed on the Connecticut Secretary of the State registration reads "Connecticut Recycling & Composting, LLC."
  5. Respondent CRC's registered business address listed with the Connecticut Secretary of the State is 30 Prindle Road, West Haven, Connecticut 06516. Respondent CRC's president listed on the Connecticut Secretary of the State registration is Respondent Cuzzocreo, whose business address listed with the Connecticut Secretary of the State is 30 Prindle Road, West Haven, Connecticut.
  6. At all times relevant to this Consent Order, Respondent Cuzzocreo has been and is the responsible corporate officer of Respondent EJC and Respondent CRC.
  7. On March 11, 2010, the Department of Energy and Environmental Protection (the "Department") issued Consent Order No. WSWDS10005 ("2010 Consent Order") to Respondent Cuzzocreo and Ernest Cuzzocreo, as the then-owners and operators of the site, for the illegal construction and

operation of a solid waste facility at the site. Specifically, Respondent Cuzzocreo and Ernest Cuzzocreo had caused untreated and treated wood waste, land clearing debris, bulky waste, street sweepings, leaves and manure to be processed and disposed of at the site. The 2010 Consent Order required Respondent Cuzzocreo and Ernest Cuzzocreo to: (a) cease receiving, processing, and disposing of solid waste at the site absent a valid permit issued by the Commissioner; (b) lawfully remove the solid waste from the site in accordance with a plan prepared by a qualified consultant and approved by the Commissioner; and (c) pay a ten thousand (\$10,000) dollar penalty. Based on a written certification submitted to the Commissioner that the requirements of the 2010 Consent Order had been completed, the Commissioner closed the 2010 Consent Order on March 22, 2011.

8. On May 13, 2013, staff from the Waste Engineering and Enforcement Division ("WEED") of the Department performed an inspection at the site and found that the Respondents had established, constructed and/or operated a solid waste facility at the site without a permit from the Commissioner. The inspection revealed that there were approximately seventeen thousand and seven hundred (17,700) cubic yards of wood materials (unprocessed wood waste and wood chips), one industrial grinder and one excavator at the site. On August 1, 2013, the Department issued Notice of Violation ("NOV") No. WSWDS13049 to Respondent EJC and Respondent Cuzzocreo for these solid waste violations. On January 16, 2014, NOVSWDS13049 was closed based on a written certification statement from Respondent Cuzzocreo to the Department that the unpermitted activity had ceased. However, contrary to the written certification, the unpermitted activity had not ceased, and an unpermitted solid waste facility still existed at the site.
9. On May 2, 2014, staff from WEED performed an inspection at the site, and found a "solid waste facility" as defined in Connecticut General Statutes ("Conn. Gen. Stat.") § 22a-207(6), including but not limited to, the following: (a) land clearing debris, stumps, logs, mulch piles, demolition debris and other assorted waste; and (b) one industrial grinder and one excavator.
10. Based on the findings in paragraphs A.1 - A.9, the Respondents have established, constructed, and operated and/or are operating a solid waste facility at the site where more than ten cubic yards of solid waste including, but not limited to land clearing debris, stumps, logs, demolition debris and other assorted waste was disposed of after July 1, 1971, without a plan, design and method of operation of such solid waste facility having been filed with the Department and approved by the Commissioner by the issuance of a permit to construct and operate a solid waste facility, all in violation of Conn. Gen. Stat. §§ 22a-208a(b) and 22a-208c and Regulations of Connecticut State Agencies ("RCSA") §§ 22a-209-2, 22a-209-4, 22a-209-7, and 22a-209-8.
11. On June 10, 2014, the Department issued NOVSWDS14032 to the Respondents requiring correction of the violation listed in paragraph A.10 of this consent order. The Respondents did not accept the certified mailing; therefore, State Marshal William Stuart hand delivered a packet containing NOVSWDS14032 to Respondent Cuzzocreo at the Town of Orange police station at 10:15 p.m. on August 7, 2014. The Respondents have failed to submit a compliance statement in response to NOVSWDS14032.
12. On April 24, 2014, a large fire involving wood chips, tree stumps, and logs occurred at the site. Firefighters from the municipalities of Orange, West, Haven, Derby, Woodbridge, Milford, and Bethany, and from the Department's Forestry Division responded to the fire. Heavy smoke crossing Interstate 95 caused traffic to slow down and stop. Fires also occurred on the site on October 19, October 26, October 27, November 12, and December 27, 2013 and March 6 and March 23, 2014. The Town of Orange's Fire Marshal determined that the fires originated in the mulch piles at the site.

13. On May 2, 2014, the Department's Bureau of Air Management's ("BAM") Engineering and Enforcement Division observed and photographed charred materials from the April 24, 2014 fire, including large logs, wood stumps, and a portion of a standing tree on the south side of the site. The Respondents' failure to properly manage mulch piles at the site caused the mulch piles to ignite, allowing open burning without an authorizing permit in violation of Conn. Gen. Stat. § 22a-174(f). In addition, the April 24, 2014 fire generated air pollution in violation of RCSA § 22a-174-9.
  14. The Respondents burned materials on the site without proper authorization on ~~October 19, October 26, October 27, November 12, and December 27, 2013 and March 6, March 23, and April 24, 2014~~ by allowing the mulch piles on the site to ignite through improper management of the mulch piles in violation of Conn. Gen. Stat. § 22a-174(f).
  15. Pursuant to RCSA § 22a-174-9(a), "No person shall permit or cause air pollution, as defined in § 22a-174-1. ..." RCSA § 22a-174-1(6) defines "air pollution" as "the presence in the ambient air of one or more air pollutants or any combination thereof in such quantities and of such characteristics and duration as to be, or likely to be, injurious to public welfare or the environment, to the health of human, plant or animal life, or to property, or as unreasonably to interfere with the enjoyment of life and property."
  16. Heavy smoke, an air pollutant as defined by RCSA § 22a-174-1(5), was emitted during the April 24, 2014 fire. The smoke crossed Interstate 95 near ground level, reducing visibility sufficiently to cause dangerous traffic conditions and exposing motorists to air pollution. As the site is in a heavily populated area with many residences and businesses in proximity, many people were exposed to the smoke, thereby, posing a health risk. Therefore, the Respondents caused air pollution as defined by RCSA § 22a-174-1(6) in violation of RCSA § 22a-174-9.
  17. On June 9, 2014, the Department issued NOV No. 17213 to the Respondents for the violations described in paragraphs A.1 - A.16. State Marshal William Stuart hand delivered a packet containing NOV No. 17213 to Respondent Cuzzocreo at the Town of Orange police station at 10:15 p.m. on August 7, 2014. The Respondents have failed to submit a compliance statement in response to NOV No. 17213.
  18. On January 6, 2015, staff of BAM observed a large mulch pile on the north edge of the site, smaller mulch piles located near a tub grinder on the northwest corner of the site, and piles of hardwood on the site and concluded that a fire hazard continues to exist on the site.
  19. On December 21, 2015, staff of BAM and WEED along with the Town of Orange's Fire Marshal observed a large mulch pile on the north edge of the site, smaller mulch piles located near a tub grinder on the northwest corner of the site, and piles of hardwood on the site. BAM concluded that a fire hazard continues to exist on the site.
  20. By virtue of the facts set forth in paragraphs A.1 through A.19, Respondents have violated Conn. Gen. Stat. §§ 22a-208a(b), 22a-208c, and 22a-174(f) and RCSA §§ 22a-209-2, 22a-209-4, 22a-209-7, 22a-209-8, and 22a-174-9.
  21. By agreeing to the issuance of this Consent Order, the Respondents make no admission of fact or law with respect to the matters asserted in Paragraphs A.9, A.10, A.14, A.16, and A. 18 through A.20 of this consent order.
- B. With the agreement of Respondents, the Commissioner, acting under Conn. Gen. Stat. §§ 22a-6, 22a-178, 22a-

208, 22a-225, and 22a-226, orders Respondents as follows:

1. **Prohibition.** Respondents shall not receive, process or dispose of solid waste at the site unless a valid permit, issued by the Commissioner, is first obtained. Respondents shall not establish, construct, or operate a solid waste facility without the required permits issued by the Commissioner.
2. **Qualified Professional.** On or before **thirty (30) days** after issuance of this consent order, Respondents shall retain one or more qualified consultant(s) acceptable to the Commissioner to prepare the documents and implement or oversee the actions required by this consent order and shall, by that date, notify the Commissioner in writing of the identity of such consultant(s). Respondents shall retain one or more qualified consultant(s) acceptable to the Commissioner until this consent order is fully complied with, and, within ten (10) days after retaining any consultant other than one originally identified under this paragraph, Respondents shall notify the Commissioner in writing of the identity of such other consultant. Respondents shall submit to the Commissioner a description of a consultant's education, experience and training which is relevant to the work required by this consent order within ten (10) days after a request for such a description. The consultant(s) retained to prepare the documents and implement or oversee the actions required by this consent order must be an independent, registered professional engineer in the State of Connecticut ("P.E.") or must provide professional services in accordance with Section 22a-133v-1 through 8 of the RCSA (the Licensed Environmental Professional Regulations). Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.
3. **Remove Solid Waste.** Respondents shall remove all solid waste from the site as follows:
  - a. **Plan for Removal.** On or before **sixty (60) days** after issuance of this consent order, Respondents shall submit a plan, for the Commissioner's review and written approval, for the removal and disposal of all solid waste from the site. This plan shall be prepared by the consultant approved by the Commissioner pursuant to paragraph B.2, and shall include, at a minimum: an inventory of the type, quantity and location of all solid waste on the site; a description of the procedure(s) to be used for removal of solid waste from the site; identification of the permitted disposal facilities to which the solid waste will be delivered; and a schedule to perform the work to be conducted under the plan.
  - b. **Implement Removal Plan.** On or before **one hundred and twenty (120) days** after the plan required in paragraph B.3.a is approved, Respondents shall initiate implementation of the approved plan. Respondents shall complete removal of all solid waste from the site in accordance with the schedule as approved by the Commissioner. Respondents shall, contemporaneously with the removal of each load of solid waste from the site, create a written log of each load of solid waste removed from the site pursuant to the approved plan, including: the name of the transportation company and the vehicle registration number for each load of solid waste transported from the site; the quantity and type of solid waste removed; and the name of the receiving waste facility.
  - c. **Certify Removal.** Within **fifteen (15) days** after completion of the solid waste removal pursuant to the plan approved by the Commissioner, the Respondents and their consultant shall certify to the Commissioner in writing that the actions have been completed as approved and shall submit a copy of the written log and the receipts from the receiving waste facilities.
4. **Fire Prevention.** The Respondents shall store and handle all combustible materials on the site in a manner that prevents combustion of the material. The Respondents shall not cause or allow open burning on the site.

5. Status of Notice of Violation No. WSWDS14032. This consent order supersedes Notice of Violation No. WSWDS14032.
6. Status of Notice of Violation No. 17213. This consent order supersedes Notice of Violation No. NOV 17213.
7. Progress Reports. On or before the last day of March, June, September, and December of each year after issuance of this consent order and continuing until all actions required by this consent order have been completed as approved and to the Commissioner's satisfaction, Respondents shall submit a progress report to the Commissioner describing the actions which Respondents have taken to date to ~~comply with this consent order.~~
8. Civil Penalty for Violations. Respondents are assessed a civil penalty of **forty-three thousand and four hundred dollars (\$43,400)** as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraphs A.10, A.14, A.16, and A.20 of this consent order. Payment shall be made in accordance with the provisions of paragraph B.9, and the following:
  - a. Upon execution of this consent order, Respondents shall pay **ten thousand dollars (\$10,000)**.
  - b. If Respondents comply timely with the provisions of this consent order, the payment made pursuant to paragraph B.8.a shall be deemed to satisfy the total civil penalty.
  - c. If Respondents do not comply timely with any of the provisions of this consent order, then Respondents shall pay the remaining **thirty three thousand and four hundred dollars (\$33,400)** within fifteen (15) days of the date the Commissioner notifies the Respondents, or any of them, in writing that the remainder of the total civil penalty is due.
9. Payment of penalties. Payment of penalties under paragraph B.8. of this consent order shall be mailed or personally delivered to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to "Connecticut Department of Energy and Environmental Protection." The check shall state in the memo notation, "Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division civil penalty" and the consent order number identified at the top of page one of this consent order. Copies of the check and any transmittal letter shall also be sent to Ms. Julie Dutton in the Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division, at the same address.
10. 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 as approved and to the Commissioner's satisfaction.
11. 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.

12. Definitions. As used in this consent order, "Commissioner" means the Commissioner of Energy and Environmental Protection or a representative of the Commissioner.
13. 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.
14. 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 Respondent or, if Respondent is not an individual, by Respondent's responsible corporate officer, general partner, or proprietor, or a duly authorized representative of such person, as those terms are defined in RCSA § 22a-430-3(b)(2), and by the individual(s) responsible for actually preparing such document, and each such individual so signing 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 Conn. Gen. Stat. § 53a-157b and any other applicable law."
15. 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. Failure to comply with this consent order may subject Respondents to an injunction and penalties.
16. False statements. Any false statement in any information submitted pursuant to this consent order is punishable as a criminal offense under Conn. Gen. Stat. § 53a-157b and any other applicable law.
17. Notice of transfer; liability of Respondent. Until Respondents have fully complied with this consent order, Respondents shall notify the Commissioner in writing no later than fifteen (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.
18. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties, 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 violations of law, including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by Respondents pursuant to this consent order have not fully characterized the

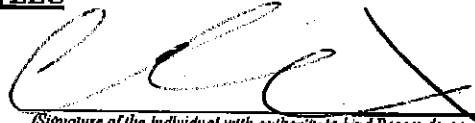
extent and degree of pollution or have not successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondents to undertake further investigation or further action to prevent or abate pollution.

19. Respondent's obligations under law. Nothing in this consent order shall relieve Respondents of other obligations under applicable federal, state and local law.
20. 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.
21. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the site without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.
22. 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.
23. Notice to Commissioner of changes. Within fifteen (15) days of the date Respondents become 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.
24. Notification of noncompliance. In the event that Respondents become 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 hereunder, Respondents shall immediately notify by telephone the 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.
25. Submission of documents. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in this consent order or in writing by the Commissioner, be directed to:

Laurene Buckowski, Sanitary Engineer 2  
Department of Energy and Environmental Protection  
Bureau of Materials Management and Compliance Assurance  
Waste Engineering and Enforcement Division  
79 Elm Street, 4<sup>th</sup> Floor  
Hartford, Connecticut 06106-5127

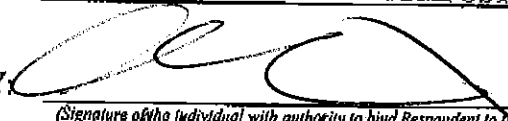
Respondents consent to the issuance of this consent order without further notice. The undersigned certifies that he/she is fully authorized to enter into this consent order and to legally bind the Respondents to the terms and conditions of the consent order.

EJC, LLC

BY:   
(Signature of the individual with authority to bind Respondent to terms of consent order)  
Name (typed) Alexander Cuzzocreo  
Title Authorized Member  
Date 12-21-17


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CONNECTICUT RECYCLING & COMPOSTING, LLC

BY:   
(Signature of the individual with authority to bind Respondent to terms of consent order)  
Name (typed) Alexander Cuzzocreo  
Title Authorized Member  
Date 12-21-17

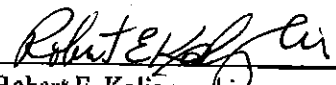
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ALEXANDER CUZZOCREO

BY:   
(Signature of the individual with authority to bind Respondent to terms of consent order)  
Name (typed) Alexander Cuzzocreo  
Title \_\_\_\_\_  
Date 12-21-17

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

  
Robert E. Kaliszewski  
Deputy Commissioner

1/16/18  
Date

CONSENT ORDER No. DEEP2017006

Town of Orange Land Record