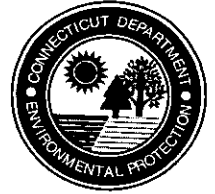


STATE OF CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OF CONNECTICUT

VS.

TOWN OF MANCHESTER

)
)
)
)
)
)
)

Order No. 2119

CONSENT ORDER

- A. With the agreement of the Town of Manchester ("Respondent"), the Commissioner of Environmental Protection ("Commissioner") finds the following:
1. The Respondent engages in the business of disposing of commercial and residential construction debris, bulky waste, and certain Connecticut regulated special waste at a publicly owned landfill located at 1 Landfill way, Manchester, Connecticut (the "landfill").
 2. The landfill has a design capacity greater than 2.5 million megagrams and 2.5 million cubic meters and, on December 2, 2003, received Solid Waste Permit No. 0770658-M from the Department for a vertical expansion. It is therefore subject to Code of Federal Regulation, Title 40, Part 60, Subpart WWW - Standards of Performance for Municipal Solid Waste Landfills (40 CFR 60, Subpart WWW).
 3. In 1999 the Respondent voluntarily commenced construction of a gas collection and odor control system (GCOCS). The Respondent received New Source Review Permit No. 097-0114 to operate the GCOCS in 2001. Pursuant to Permit No. 097-0114, the GCOCS must be operated in accordance with all applicable requirements of 40 CFR 60, Subpart WWW.
 4. The landfill is considered a Title V source, pursuant to Section 22a-174-33(a)(1)(A) of the Regulations of Connecticut State Agencies, operating under Title V Permit No. 097-0127-TV issued on January 16, 2009. Pursuant to Permit No. 097-0127-TV, the landfill must be operated in accordance with all applicable requirements of 40 CFR 60, Subpart WWW.
 5. Pursuant to 40 CFR 60.754 the Respondent may elect one of 3 methods to demonstrate compliance with 40 CFR 60, Subpart WWW. The respondent has elected to use the method provided in 40 CFR 60.754(a)(3) and is therefore required to conduct a retest every 5 years of the site specific Non-Methane Organic compound (NMOC) concentration.

6. Pursuant to NSR Permit No. 097-0114 and 40 CFR 60, Subpart WWW, the Respondent conducted the first required NMOC concentration test on May 31, 2001 according to the method described in 40 CFR 60.754(a)(3) to comply with 40 CFR 60, Subpart WWW. The test was approved by the Commissioner and revealed a NMOC concentration below 50 Mg/yr.
 7. According to 40 CFR 60.754(a)(3), because the first required test showed an NMOC concentration not exceeding 50 Mg, a NMOC retest was due by May 31, 2006.
 8. On July 15, 2009, a representative of the Department inspected the landfill and determined that an NMOC concentration retest had not been performed by May 31, 2006. It was determined that this constituted a violation of 40 CFR 60, Subpart WWW and Permit No. 097-0127-TV so the Department issued Notice of Violation No. 16395 on August 17, 2009 to the Respondent.
 9. In response to Notice of Violation No. 16395 the Respondent conducted a NMOC concentration retest on August 4, 2009, in the presence of a representative of the Department, approximately 3 years after the due date established by 40 CFR 60.754(a)(3).
 10. The test was approved by the Commissioner and the results were analyzed by the Department and reported a NMOC concentration not exceeding 50 Mg/yr.
 11. By virtue of the above, the Respondent has violated 40 CFR 60, Subpart WWW, Title V Permit No 097-0127-TV and NSR Permit No. 097-0114.
- B. With the agreement of the Respondent, the Commissioner, acting under §§22a-6, 22a-171, 22a-174 and 22a-177, of the Connecticut General Statutes orders the Respondent as follows:
1. 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 Commissioner's satisfaction.
 2. Civil penalty: On or before thirty (30) days after issuance of this Consent Order, Respondent shall pay a penalty of \$16,913 as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in Paragraph A.11 of this Consent Order.
 3. Payment of penalties. Payment of penalties under this Consent Order shall be mailed or personally delivered to the Department of 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 "Treasurer, State of Connecticut." The check shall state on its face, "Bureau of Air Management Civil Penalty, Consent Order No 2119".
 4. Supplemental Environmental Project. In lieu of the civil penalty referenced in paragraph B.2 of this Consent Order, Respondent may propose a supplemental environmental project ("SEP") requiring an expenditure of at least \$16,913 as the total estimated cost as determined by the Commissioner for the SEP required under this paragraph, or make payment as follows:

- a. By no later than thirty (30) days after the issuance of this Consent Order, the Respondent shall submit a SEP project proposal for Commissioner's approval in lieu of the civil penalty referenced in paragraph B.2 of this Consent Order.
- b. Respondent shall perform each SEP indentified and described in the proposal prepared pursuant to subparagraph B.4.a of this Consent order. Respondent shall perform each such SEP in accordance with the schedule approved by the Commissioner and shall obtain any federal, state or local permit or approval necessary to carry out such SEP.
- c. If the Respondent fails to fully perform the SEP in accordance with subparagraph B.4.b of this Consent Order, the Respondent shall immediately pay a civil penalty of \$16,913. The Respondent shall pay such civil penalty in accordance with the provisions of paragraph B.3 of this Consent Order.
- d. On or before thirty (30) days after the completion of the SEP, the Respondent shall submit for the Commissioner's review and written approval a comprehensive final report that certifies completion of the SEP. Such final report shall include, at a minimum, a narrative history of the project, detailed explanation of its design and implementation and complete final accounting of actual project costs including receipts for out-of-pocket costs.
- e. Should the Commissioner determine that the actual cost to the Respondent of any fully completed SEP is less than the estimated cost, as determined by the Commissioner, of such SEP, the Respondent shall pay the difference between such actual cost and the estimated cost to the Commissioner as unexpended SEP funds. The Commissioner shall notify the Respondent in writing of the amount of any such unexpended SEP funds that are due. Respondent shall, within fourteen (14) days after the date of such written notice, remit the full amount of the unexpended SEP funds. Payment of unexpended SEP funds shall be by certified or bank check payable to "Treasurer, State of Connecticut" and the check shall state on its face "Statewide SEP Account, Consent Order No. 2119." The Respondent shall mail or personally deliver such payment to the Department of Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127.
- f. If and when the Respondent disseminates any publicity, including but not limited to any press releases regarding funding a SEP, the Respondent shall include a statement that such funding is in partial settlement of an enforcement action brought by the Commissioner.
- g. The Respondent shall not claim or represent that the SEP payment made pursuant to this consent order constitutes an ordinary business expense or charitable contribution or any other type of tax deductible expense, and the Respondent shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.

5. Approvals. Respondent 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 Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within 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.
6. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
7. 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.
8. 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 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."
9. 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.

10. False Statements. Any false statement in any information submitted pursuant to this Consent Order may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
11. 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 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. 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.
12. 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 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.
13. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondent of other obligations under applicable federal, state and local law.
14. 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.
15. Access to site. Any representative of the Department of Environmental Protection may enter the facility without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.
16. 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.
17. Notice to Commissioner of changes. Within 15 days of the date Respondent 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, Respondent shall submit the correct or omitted information to the Commissioner.
18. Notification of noncompliance. In the event that Respondent 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 hereunder, Respondent 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, Respondent 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 Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent 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.

19. 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:

Mr. Marco Lumbroso
Department of Environmental Protection
Bureau of Air Management
Engineering & Enforcement Division
79 Elm Street
Hartford, Connecticut 06106-5127

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.

Town of Manchester

Signature: Scott Stanley
 Type Name: SCOTT STANLEY
 Type Title: GENERAL MANAGER
 Date: 07/23/10

Issued as a final order of the Commissioner of the Department of Environmental Protection.

Amy Marrella
 Amy Marrella
 Commissioner

July 26, 2010
 Date

TOWN OF MANCHESTER
 LAND RECORDS
 MAILED CERTIFIED MAIL,
 RETURN RECEIPT REQUESTED
 Certified Document No.