

Connecticut Department of
ENERGY &
ENVIRONMENTAL
PROTECTION

STATE OF CONNECTICUT
VS.
UBS AG

)
)
)
)
)
)
)

Order No. 2203

CONSENT ORDER

A. With the agreement of UBS AG ("Respondent"), the Commissioner of Energy and Environmental Protection ("Commissioner") finds the following:

1. Respondent operates a facility ("facility") located at 677 Washington Boulevard in Stamford, Connecticut. The Respondent acquired the facility following a corporate merger in April 1998.
2. At the facility, the Respondent operates two (2) Cleaver Brooks Boilers, five (5) Caterpillar 1750kw Emergency Engines ("Emergency Engines No. 1, 2, 3, 4 and 5"), and (3) Caterpillar 2000kw Emergency Engines ("Emergency Engines No. 6, 7 and 8"). Each Emergency Engine is a reciprocating engine with a maximum rated capacity of three (3) MMBtu/hr or more. Each boiler is a piece of fuel burning equipment with a maximum rated capacity of five (5) MMBtu/hr or more.
3. Emergency Engines No. 1, 2, 3 and 4 were installed in 1997, Emergency Engine No. 5 was installed in 2001 and Emergency Engines No. 6, 7 and 8 were installed in 2008. When the 8th engine was installed, the potential to emit NOx for the entire facility exceeded 25 tons per year. Additionally each engine and the entire facility, has the potential to emit greater than 137 lbs of Nitrogen Oxides (NOx) during any day between May 1 and September 30 after 1995.
4. Stamford is designated as a severe non-attainment area for the National Ambient Air Quality Standard for ozone.
5. On January 25, 2010 an inspection of this facility was conducted. The Commissioner alleges that the Respondent:

Date Issued: October 21, 2011

79 Elm Street, Hartford, CT 06106-5127

www.ct.gov/deep

Affirmative Action/Equal Opportunity Employer

6. Failed to transfer New Source Review Permits #0172-0070, #0172-0071, #0172-0100, #0172-0101, #0172-0102 and #0172-0103, which were originally issued to Swiss Bank Corporation for Emergency Engines No.1-No.4. and the two boilers, as required by Section 22a-6(o) of the Connecticut General Statutes.
7. Failed to apply for a Title V permit in accordance with Subsection 22a-174-33(f)(2) of the Regulations of Connecticut State Agencies ("RCSA").
8. Failed to pay emissions fees for emissions of regulated air pollutants for calendar years 2008, 2009 and 2010, in accordance with Section 22a-174-26(d).
9. Failed to submit a compliance plan as required by Section 22a-174-22(m)(1) of the RCSA.
10. Operated Emergency Engines No.1-No.5 to perform routine, scheduled testing or maintenance on June 7, 2008, July 2, 2008, July 9, 2008 and July 18, 2008. On those days, the Commissioner forecasted that ozone levels would be either "moderate to unhealthy," "unhealthy," or "very unhealthy". Actual NOx emissions for the premises exceeded one hundred thirty-seven (137) pounds on June 7, 2008 and therefore Emergency Engines No. 1-5 and the two boilers became subject to Subsections 22a-174-22(d-k), inclusive of the Regulations on June 7, 2008.
11. Failed to perform emissions tests on Emergency Engines No.1-No.5 on or before June 7, 2009, as required by Section 22a-174-22(k) of the RCSA.
12. Failed to conduct NOx emissions testing on the boilers on or before the close of calendar year 2009 (one year after becoming subject to Section 22a-174-22(k) of the RCSA).
13. For Emergency Engines No.1-No.5, failed to comply with the emission limitations of Subsections 22a-174-22(d-e) of the Regulations.
14. By agreeing to the issuance of this Consent Order, the Respondent makes no admission of fact or law with respect to the matters addressed herein, other than the facts asserted in Paragraphs A.1.-A.4. inclusive.

B. With the agreement of the Respondent, the Commissioner, pursuant to Sections 22a-6, 22a-171, 22a-174, 22a-177, and 22a-178 of the Connecticut General Statutes, orders as follows:

1. **NOx Compliance Plan.** Within one hundred and twenty (120) days after issuance of this Order, the Respondent shall submit a revised NOx Compliance Plan in accordance with Section 22a-174-22(m)(1) of the Regulations. The revised compliance plan shall include the data obtained from NOx emissions testing performed on Emergency Engines No. 1-8 and the boilers.
2. **Title V Emission Fees.** Within sixty (60) days after issuance of this Order, Respondent shall submit a total of \$10,488.00 for emissions fees due in accordance with Section 22a-174-26 of the Regulations for emissions occurring during calendar years 2008 and 2009.

3. Payment of Title V Emission Fees. Payment of Title V emission fees under this Consent Order shall be mailed or personally delivered to Bureau of Financial and Support Services--Accounts Receivable Office ["F&SS"]. Department of Energy and Environmental Protection, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to the Treasurer, State of Connecticut. The check shall state on its face, "Title V Emission Fees, Revenue ID #224/Consent Order #2203".
4. Civil penalty. Within sixty (60) days of Order issuance, the Respondent shall submit a penalty of \$20,000 as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in Paragraphs A.6., A.7. and A.9.-A.13. of this Consent Order.
5. Payment of civil penalty. Payment of penalties under this Consent Order shall be mailed or personally delivered to Bureau of Financial and Support Services--Accounts Receivable Office ["F&SS"]. Department of Energy and Environmental Protection, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to the Treasurer, State of Connecticut. The check shall state on its face, "Bureau of Air Management Civil Penalty, Enforcement and Engineering Division, Consent Order #2203".
6. Supplemental Environmental Project.
 - a. In addition to the twenty thousand dollar (\$20,000) civil penalty referenced in Paragraph B.5 of this Consent Order, the Respondent has agreed to provide funding to the Department's Statewide SEP Account for the purposes of funding the purchase and installation of electric automobile charging stations within Connecticut.
 - b. Within thirty (30) days after the date of issuance of this Consent Order, the Respondent shall pay \$60,000 to the Statewide SEP Account for the purposes of funding the purchase and installation of electric automobile charging stations within Connecticut. The payment 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 the Treasurer, State of Connecticut, with notation thereon "Statewide SEP Account" and "Consent Order #2203".
 - c. If the Respondent disseminates any publicity 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.
 - d. 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.
7. Full compliance. The 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.

8. Approvals. The Respondent shall use best efforts to submit to the Commissioner all documents required by this Order in a complete and approvable form. If the Commissioner notifies the Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and the 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.
9. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
10. 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.
11. 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 the Respondent or, if the Respondent is not an individual, by the 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 the Respondent or the Respondent's chief executive officer 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 is punishable as a criminal offense under Section §53a-157b of the Connecticut General Statutes and any other applicable law."
12. 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 the Respondent to an injunction and penalties.

13. False Statements. Any false statement in any information submitted pursuant to this Consent Order is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
14. Notice of transfer; liability of Respondent. Until the 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. The 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.
15. 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 Respondents 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 the Respondents to undertake further investigation or further action to prevent or abate violations or pollution.
16. Respondent's obligations under law. Nothing in this Consent Order shall relieve the Respondent of other obligations under applicable federal, state and local law.
17. 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 the Respondent pursuant to this Consent Order will result in compliance.
18. Access to site. Any representative of the Department of Energy and 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.
19. 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.
20. Notice to Commissioner of changes. Within 15 days of the date the 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, the Respondent shall submit the correct or omitted information to the Commissioner.
21. Notification of noncompliance. In the event that the 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, the 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, the 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 the Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by the 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.

22. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order, unless otherwise specified in this Consent Order or in writing by the Commissioner, shall be directed to:

Teraesa Chagnon
Department of Energy and Environmental Protection
Air 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 Respondent to the terms and conditions of the Consent Order. The undersigned further certifies that the Supplemental Environmental Project described in Paragraph B. 6 of this Consent Order are not any of the following: 1.) projects that the Respondent has already completed; 2.) projects which the Respondent already intended to do or is likely to do for reasons other than the settlement of the matters described above; 3.) projects that are required by statute, regulation, permit or another order; or 4.) projects which the Department has the legal authority to require the Respondent to do.

UBS AG

Signature: 

Type Name: Richard Schneider

Type Title: Executive Director

Date: October 12, 2011

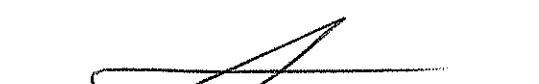
Signature: 

Type Name: Michael S. Galle

Type Title: Executive Director

Date: 10/12/11

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


Daniel C. Esty
Commissioner

Date

10/20/11

*Public Act 11-80, effective July 1, 2011, established the Department of Energy and Environmental Protection as the successor agency to the Department of Environmental Protection (DEEP).

MAILED CERTIFIED MAIL,
RETURN RECEIPT REQUESTED