

STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OF CONNECTICUT)
VS.)
EXETER ENERGY L.P.)

ORDER NO. 2238

CONSENT ORDER

- A. With the agreement of Exeter Energy L.P. ("Respondent"), the Commissioner of Environmental Protection ("Commissioner") finds the following:
1. Respondent is a tire-fueled power generating facility located at 10 Exeter Drive, Sterling, CT 06377 ("facility").
2. Respondent is a major stationary source for Nitrogen Oxides ("NOx"), Sulfur Oxides ("SOx"), and Hazardous Air Pollutants ("HAPs").
3. Respondent operates under Title V Permit No. 176-0006-TV ("Operating Permit") and New Source Review ("NSR") Permit Nos. 176-0001 ("Permit #1") and 176-0002 ("Permit #2").
4. At the facility, the Respondent operates two waste tire-fired incinerators/boilers each with three reciprocating grates that are subject to RCSA Section 22a-174-38 pertaining to the operation and maintenance of municipal waste combustors ("MWC").
5. Pursuant to RCSA Section 22a-174-38(j)(2)(A), an MWC owner or operator shall comply with the following minimum data requirements:
A.) Data available for gaseous and process continuous emissions monitoring systems ("CEMs") shall not be less than ninety percent (90%) of the total operating hours in any one calendar quarter and not less than ninety-five percent (95%) of the total operating hours in any one calendar year; and
B.) Data available for opacity CEMs shall not be less than ninety-five percent (95%) of the total operating hours in any one calendar quarter.
6. Pursuant to RCSA Section 22a-174-38(l)(2), an MWC owner or operator is required to submit a quarterly report to the Department within thirty (30) days following the end of each calendar quarter including all required data recorded during the calendar quarter.

7. The Respondent submitted a report for the first quarter of 2009 ending on March 31, 2009, on April 28, 2009. The Department's review of the report discovered that the Respondent failed to meet data availability requirements for the stack sulfur dioxide ("SO₂") and carbon dioxide ("CO₂") for that quarter. Data availability requirements for the stack SO₂ and CO₂ CEMs during the first quarter of 2009 were reported to be 60% and 58%, respectively.
 8. Pursuant to RCSA Section 22a-174-33(q)(2), the Respondent shall, on March 1 of each year, submit to the commissioner a written compliance certification certified in accordance with RCSA Section 22a-174-2a(a)(5) and which includes the information identified in Title 40 CFR 70.6(c)(5)(iii)(A) to (C), inclusive.
 9. The Respondent submitted a compliance certification for calendar year 2008 on January 30, 2009. The Department's review of the compliance certification discovered that the Respondent exceeded emissions limits specified in Sections III.A.1.1, III.A.1.4, III.A.1.5, and III.A.1.10 of the Operating Permit as well as RCSA Section 22a-174-38, NSR Permit No. 176-0001, and NSR Permit No. 176-0002.
 10. The Respondent submitted a report for the third quarter of 2009 ending on September 3, 2009, on October 30, 2009. Additionally, the Respondent submitted a report for the fourth quarter of 2009 ending on December 31, 2009, on January 29, 2010. The Department's review of these reports discovered that the Respondent failed to meet data availability requirements for Unit #2's carbon monoxide ("CO") CEMS for the third quarter of 2009 and failed to meet data availability requirements for the stack opacity CEMs for the fourth quarter of 2009. Data availability requirements for Unit #2's CO CEMs for the third quarter of 2009 and the stack opacity CEMs for the fourth quarter of 2009 were both reported to be 66%.
 11. The Respondent submitted a compliance certification for calendar year 2009 on February 2, 2010. The Department's review of the compliance certification discovered that the Respondent exceeded emissions limits specified in Sections III.A.1.1, III.A.1.2, III.A.1.4, III.A.1.5, III.A.1.7, III.A.1.9, and III.A.1.10 of the Operating Permit as well as RCSA Section 22a-174-38, NSR Permit No. 176-0001, and NSR Permit No. 176-0002.
 12. Based on these discoveries, the Department issued four (4) Notices of Violation, numbered 16350, 16400, 16502, and 16503. Additionally, during 2010 there were 14 air emissions exceedances from January 1, 2010 to October 30, 2010, reported by the Respondent.
 13. By virtue of the above, the Respondent violated RCSA Section 22a-174-38, RCSA Section 22a-174-33, RCSA Section 22a-174-3a(h), the Operating Permit, NSR Permit Nos. 176-0001 and 176-0002.
 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.
- B. With the agreement of the Respondent, the Commissioner, acting under §22a-6, 22a-171, 22a-174, 22a-177, and 22a-178 of the Connecticut General Statutes, orders the Respondent as follows:

1. Civil penalty. On or before 30 days after issuance of this consent order, the Respondent shall submit a penalty of \$16,250 as the total civil penalty to be sought by the Commissioner for the violations described in Paragraphs A.7, A.9, A.10, and A.11 of this Consent Order.
2. 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, Engineering and Enforcement Division Civil Penalty, Consent Order 2238."
3. 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.
4. Approvals. The 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 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.
5. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
6. 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.
7. 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 individuals, 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 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."

8. 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.
9. 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.
10. Notice of transfer; liability of Respondent. Until the Respondent has fully complied with this Consent Order, the 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.
11. 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 the 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 the Respondent to undertake further investigation or further action to prevent or abate violations or pollution.
12. Respondent's obligations under law. Nothing in this Consent Order shall relieve the Respondent of other obligations under applicable federal, state, and local law.
13. 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.
14. 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.
15. 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.

16. 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.
17. Notification of noncompliance. In the event that the Respondent 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, 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.
18. Joint and several liability. Respondent shall be jointly and severally liable for compliance with this Consent Order.
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:

Rickey Bouffard, Air Pollution Control Engineer
Department of Environmental Protection
Bureau of Air Management
Engineering and 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.

Exeter Energy L.P.

Signature:

Thomas M. Harnsberger

Type Name:

Thomas M. Harnsberger

Type Title:

General Manager

Date:

December 22, 2010

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

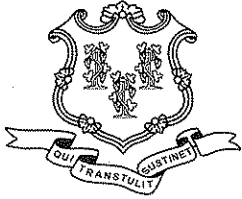
Amey Marrella

Amey Marrella
Commissioner

Date

12/28/10

MAILED CERTIFIED MAIL
RETURN RECEIPT REQUESTED



**STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION**



December 29, 2010

Mr. Thomas M. Harnsberger
General Manager
Exeter Energy Limited Partnership
PO Box 188
10 Exeter Drive
Sterling, CT 06377

Re: Consent Order 2238

Dear Mr. Harnsberger:

Enclosed is a copy of Consent Order No. 2238 executed by Commissioner Amey Marella.

If you have any questions regarding this letter, please do not hesitate to call me at (860) 424-3702.

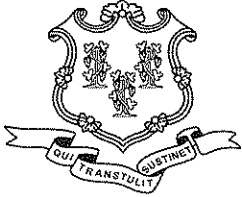
Sincerely,

A handwritten signature in cursive script that reads "Rickey Bouffard".

Rickey Bouffard
Air Pollution Control Engineer
Bureau of Air Management

Enclosure

CERTIFIED MAIL:



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



December 29, 2010

The Honorable Russell M. Gray
First Selectman
1183 Plainfield Pike
P. O. Box 157
Oneco, CT 06373

RE: Notice of Enforcement Action
Exeter Energy, L.P.

Dear Selectman Gray:

The Connecticut General Assembly has enacted law that requires the Department of Environmental Protection to provide you with notice of an enforcement action in your municipality. Section 22a-6w of the Connecticut General Statutes states:

Notice to municipality of commissioner's enforcement action. Prior to, or concurrent with, taking any enforcement action under this title or any action to recover any civil penalty imposed under this title, the Commissioner of Environmental Protection shall give notice of such action to the chief elected official of the municipality in which the regulated activity which gave rise to such action is located. Such information shall be held confidential by such official and shall not be considered a public record or public information for purposes of chapter 3.

In accordance with the Department's obligations pursuant to Section 22a-6w, you are hereby notified that an enforcement action is being taken against Exeter Energy, L.P. for activities or conditions at 10 Exeter Drive, Sterling, Connecticut.

If you have questions concerning this notice, please contact me at (860) 424-3702.

Sincerely,

A handwritten signature in cursive script that reads "Rickey Bouffard".

Rickey Bouffard
Air Pollution Control Engineer
Compliance and Field Operations