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Vincent N. Amendola, Jr.  
Corporation Council

79 Elm Street • Hartford, CT 06106-5127

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Affirmative Action/Equal Opportunity Employer

STATE OF CONNECTICUT )

Order No. 2372

VS. )

CITY OF WEST HAVEN )

CONSENT ORDER

- A. With the agreement of the City of West Haven (the "Respondent"), the Commissioner of Energy and Environmental Protection ("Commissioner") finds the following:
  1. The Respondent is a municipality which owns and operates a Dorr-Oliver Fluidized Bed Incinerator ("incinerator") at the municipal wastewater treatment facility ("facility") located at 2 Beach Street in West Haven, Connecticut.
  2. Permit No. 203-0014 authorizes the operation of the incinerator and was issued to the Respondent on March 17, 2011. Permit No. 203-0014 was subsequently modified on April 11, 2012.
  3. Inspections of the facility were conducted by the Bureau of Air Management on February 20, 2012, April 23, 2012 and May 14, 2012. Based upon the information obtained during the inspections, the facility was issued Notice of Violation #16968 on September 12, 2012 for failing to comply with Permit No. 203-0014.
  4. The Respondent failed to comply with the minimum distance to the nearest property line as required by Part I.D.4. of Permit No. 203-0014.
  5. The Respondent exceeded the Particulate Matter ("PM") limit for the sewage sludge operation and exceeded the Particulate Matter of 10 Microns in diameter or smaller ("PM-10") limits for auxiliary fuel of Part IV.A.2 of Permit No. 203-0014.
  6. The Respondent failed to monitor and record Total Hydrocarbons ("THC") as required by Part V.I. of Permit No. 203-0014.
  7. The Respondent failed to comply with the sewage sludge charging rate as required by Part II.A of Permit No. 203-0014.

Date Issued: September 17, 2014

8. The Respondent failed to conduct an annual stack test in 2012 for the quantity of mercury, beryllium, metals and hydrocarbons in the incinerator exhaust gas as required by Part V.A.3. of Permit No. 203-0014.
  9. The Respondent failed to conduct a stack test for PM and Polyaromatic Hydrocarbons ("PAH") within 12 months from the March 17, 2011 permit issuance date as required by Part V.A.1. and Part V.A.2. of Permit No. 203-0014.
  10. The Respondent conducted emissions testing on February 5 and February 6, 2013; and was therefore approximately 11 months late for conducting the required emissions test under Parts V.A.1. and V.A.2. of Permit No. 203-0014.
  11. On April 26, 2012, the Respondent submitted a request for minor permit modification to Permit No. 203-0014. The modification will allow the Respondent to continuously monitor for Carbon Monoxide as opposed to THC. The modification will also correct the minimum distance of the stack to property line from 130 feet to 89 feet.
  12. By virtue of the above, the Respondent violated §22a-174-3a of the Regulations of Connecticut State Agencies and Permit No. 203-0014.
- B. With the agreement of Respondent, the Commissioner, acting under §22a-6 and §22a-174 of CGS, orders the Respondent as follows:
1. Compliance Plan. On October 21, 2013 the Respondent submitted a proposed Compliance Plan that the Respondent has implemented to comply with the sewage sludge charging rate, PM and PM-10 limits as specified in Permit 203-0014. The Department approves the Plan as submitted; however, if the approved remedial actions identified in the Compliance Plan do not result in compliance to the satisfaction of the Commissioner, additional abatement actions and a program for monitoring and reporting on the effectiveness of those actions shall be presented to the Commissioner in a supplemental report. The supplemental report shall:
    - i. Evaluate alternatives for remedial action(s), including an estimate of cost for each alternative identified, and a schedule for implementing each alternative.
    - ii. Propose a preferred alternative remedial action with supporting justification as to why the preferred remedial action is likely to achieve compliance.
    - iii. Propose a detailed program and schedule to perform the preferred remedial action and to monitor the effectiveness of such remedial action.
  2. Unless otherwise specified in writing by the Commissioner, the supplemental report and schedule shall be submitted for the Commissioner's review and written approval on or before thirty (30) days after notice from the Commissioner that they are required.
  3. Upon receipt of the Commissioner's approval of the supplemental report, the Respondent shall perform the preferred remedial action identified in the supplemental report in accordance with the supplemental report and approved schedule.

4. Statewide Supplemental Environmental Project ("SEP") Account Payment. On or before thirty (30) days after issuance of this Consent Order, the Respondent shall pay \$12,641 to the Statewide SEP Account for those, and only those, violations described in Paragraphs A.4.-A.8. of this Consent Order. Such 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 #2372".
  
5. Supplemental Environmental Project: In lieu of making a payment to the Statewide SEP Account as described in Paragraph B.4, the Respondent may elect to pursue the construction of a wildlife observation deck at the Sandy Point parking area in West Haven in accordance with the following:
  - a. Within 60 days of issuance of this Consent Order, the Respondent shall submit, for the Commissioner's review and approval, a schedule for the construction of the wildlife observation deck, requiring an expenditure of at least \$12,641.
  - b. The Respondent shall construct the wildlife observation deck 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 construction.
  - c. If the Respondent fails to construct the wildlife observation deck in accordance with subparagraph B.5.b. of this Consent Order, the Respondent shall immediately submit the amount of \$12,641 in accordance with the provisions of paragraph B.4. of this Consent Order.
  - d. On or before thirty (30) days after the completion of the wildlife observation deck, the Respondent shall submit for the Commissioner's review and written approval a comprehensive final report that certifies completion of the wildlife observation deck. Such final report shall include, at a minimum, a narrative history of the project 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 the fully completed wildlife observation deck is less than the estimated cost, as determined by the Commissioner, 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. The payment of unexpended SEP funds shall be submitted in accordance with the provisions of paragraph B.4. of this Consent Order.
  - f. If and when Respondent disseminates any publicity, including but not limited to any press releases regarding funding a SEP, Respondent shall include a statement that such funding is in partial settlement of an enforcement action brought by the Commissioner.
  - g. Respondent shall not claim or represent that any 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 Respondent shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.

12. 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.
13. 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.
14. 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.
15. Respondent's obligations under law. Nothing in this Consent Order shall relieve the Respondent 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 the Respondent pursuant to this Consent Order will result in compliance.
17. 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.
18. 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.
19. 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.
20. 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.

21. 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.

*City of West Haven*

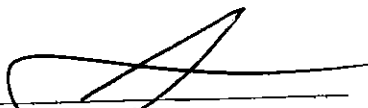
Signature: 

Type Name: Edward O'Brien

Type Title: Mayor

Date: SEPTEMBER 11, 2014

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

  
Macky McCleary  
Deputy Commissioner  
Department of Energy and Environmental Protection

Date 9/16/14

MAILED CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED