



STATE OF CONNECTICUT

V.

Dunn Paper – East Hartford, LLC.

CONSENT ORDER No. COWRIN23002

Date of Issuance: October 2, 2023

- A. With the agreement of Dunn Paper – East Hartford, LLC. ("Respondent"), the Commissioner of Energy and Environmental Protection ("the Commissioner") finds:
1. Respondent is a foreign limited liability company, which is engaged in the production of tissue paper at 40 Forbes Street in East Hartford, Connecticut ("the facility").
 2. Dunn Paper – East Hartford, LLC intends to change its name to "Biorigin Specialty Products – East Hartford, LLC" after the effective date of this Consent Order. Upon such change becoming effective, all references in this agreement to "Dunn Paper – East Hartford, LLC" or "Respondent" shall also refer to Biorigin Specialty Products – East Hartford, LLC, unless context requires otherwise. This Consent Order shall keep in effect after the name change occurs and will be binding upon Biorigin Specialty Products – East Hartford, LLC at the time the name change occurs.
 3. Respondent maintains NPDES Permit No. CT0002127 ("NPDES Permit"), which was reissued to Cellu Tissue LLC by the Department of Energy and Environmental Protection ("DEEP") on October 7, 2008. DEEP issued an Approval of License Transfer to Respondent on July 8, 2015, for the transfer of the NPDES Permit from Cellu Tissue LLC to Respondent. The NPDES Permit allows Respondent to discharge up to 1.152 million gallons per day of treated paper manufacturing wastewater to the Hockanum River.
 4. On December 22, 2016, Respondent reported to DEEP, Bureau of Materials Management and Compliance Assurance, Water Permitting and Enforcement Division ("WPED") a release of wastewater highly concentrated with total suspended solids ("TSS") at discharge serial number ("DSN") 001-1 of the NPDES Permit to the Hockanum River, a fish kill, and a bypass of the disc filter.
 5. On December 23, 2016, WPED staff investigated the facility for the reported events. Based on the Respondent's report and information acquired during the inspection, DEEP issued Notice of Violation ("NOV") No. NOVWRIN17001 to Respondent on January 4, 2017, for the following violations:

State of Connecticut v. Dunn Paper – East Hartford, LLC.
Consent Order No. COWRIN23002
Page 2 of 9

- a. discharge of partially treated wastewater without a permit to the Hockanum River, in violation of Section 22a-430 of the Connecticut General Statutes (“CGS”);
 - b. maintaining a bypass of treatment facilities in violation of Section 22a-430-3(k) of the Regulations of Connecticut State Agencies (“RCSA”);
 - c. failure to maintain practices, procedures, and facilities designed to prevent, minimize, and control unplanned releases from DSN 001-1 of the NPDES Permit, as required by Section 22a-430-3(p) of the RCSA;
 - d. failure to properly operate and maintain all facilities and systems and parts thereof for wastewater collection, storage, treatment, or control, as required by Section 22a-430-3(f) of the RCSA.
6. On April 5, 2017, Respondent reported to the WPED an exceedance of the permitted maximum pH limitation for DSN 001-1 of the NPDES Permit. On April 5, 2017, 10,500 gallons of wastewater was discharged to the Hockanum River at DSN 001-1 at a pH above the 9.0 S.U. permit limit, with a maximum pH reading of 10.97 S.U. This is a violation of Section 5(A), Table A of the NPDES Permit and Section 22a-430-3(d) of the RCSA.
7. Based on the reported information provided by Respondent, DEEP issued NOV No. WRIN17009 to Respondent on April 27, 2017, for the following violations:
- a. failure to properly operate and maintain all facilities and systems and part thereof for wastewater collection, storage, treatment, or control, as required by Section 22a-430-3(f) of the RCSA;
 - b. exceeding the maximum pH limit at DSN 001-1 of the NPDES Permit.
8. On October 11, 2016, November 11, 2016, and February 8, 2017, Respondent violated the Aquatic Toxicity, *Daphnia pulex* LC50 permit limit at DSN 001-1 of the NPDES Permit. These are violations of Section 5(A), Table A and Section 6(B) of the Permit and Section 22a-430-3(d) of the RCSA.
9. On November 6, 2017, Respondent reported to the WPED an exceedance of the permitted biochemical oxygen demand (“BOD₅”) maximum daily limit (“MDL”) in Table A of the NPDES Permit. The concentration of BOD₅ in the collected sample at DSN 001-1 of the NPDES Permit on September 18, 2017, was 55 mg/l. The permitted MDL is 50 mg/l. This is a violation of Section 5(A), Table A of the NPDES Permit and Section 22a-430-3(d) of the RCSA. Further, Respondent failed to timely notify DEEP of the BOD₅, MDL violation. This is a violation of Section 22a-430-3(j) of the RCSA.

State of Connecticut v. Dunn Paper – East Hartford, LLC.
Consent Order No. COWRIN23002
Page 3 of 9

10. On August 30, 2018, Respondent reported to WPED a discharge of visible foam to the Hockanum River at DSN 001-1 of the NPDES Permit, that took place on August 20, 2018. This is a violation of Section 4(A) of the NPDES Permit.
11. On December 4, 2019, Respondent reported to WPED a bypass of the wastewater treatment system at DSN 001-1 of the NPDES Permit to the Hockanum River that occurred on that day in violation of RCSA Section 22a-430-3(k). In addition, Respondent's failure to maintain procedures and facilities to prevent the unplanned release is a violation of RCSA Section 22a-430-3(p). On January 17, 2020, the Respondent conducted a full Failure Mode & Effects Analysis ("FMEA") of the wastewater conveyance and treatment system to identify corrective actions necessary to prevent unpermitted discharges from occurring in the future. DEEP approved corrective actions identified by the FMEA on June 4, 2020.
12. On April 26, 2022, the Respondent reported to DEEP, Emergency Response and Spill Prevention Division ("ERSPD") a release of process wastewater to the Hockanum River in violation of RCSA Section 22a-430-3(k). ERSPD responded on April 26, 2022, and April 27, 2022. On May 2, 2022, WPED received a written report from the Respondent regarding the release.
13. On January 11, 2023, and January 12, 2023, WPED staff conducted an inspection at the facility. Based on information acquired during the inspection, DEEP issued Notice of Violation No. NOVWRIN23006 on April 4, 2023, for the following violations:
 - a. Failure to maintain or incomplete records of facility monitoring information in violation of RCSA 22a-430-3(j)(9)(A);
 - b. Failure to comply with the reporting requirements of Section 5, Table A of the NPDES Permit;
 - c. Failure to collect, handle, and analyze samples required by RCSA 22a-430-3(j)(7) and 40 CFR 136;
 - d. Discharge of untreated wastewater to the Hockanum River without a permit in violation of CGS 22a-430;
 - e. Maintaining an unapproved bypass of treatment facilities in violation of RCSA 22a-430-3(k);
 - f. Failure to maintain practices, procedures and facilities designed to prevent, minimize and control unplanned releases in violation of RCSA 22a-430-3(p);

State of Connecticut v. Dunn Paper – East Hartford, LLC.
Consent Order No. COWRIN23002
Page 4 of 9

- g. Failure to properly operate and maintain all facilities and systems and parts thereof for wastewater collection, storage, treatment or control as required by RCSA 22a-430-3(f);
 - h. Violation of effluent limits for Acute Toxicity for *Daphnia pulex* at DSN 001-1 as prescribed in the NPDES Permit seven times between 2019 and 2020. Specifically, April 9, 2019, April 30, 2019, July 23, 2019, January 14, 2020, February 25, 2020, April 14, 2020, and July 21, 2020. The Respondent installed an ultra-violet (“UV”) water treatment system on December 9, 2022, in response to the Acute Toxicity limit violations for *Daphnia pulex*;
 - i. Failure to notify DEEP of the toxicity failures in item A.13.h. above as required by RCSA 22a-430-3(j);
 - j. Failure to report the results of the May 16, 2019, aquatic toxicity re-test on the discharge monitoring report (“DMR”) as required by Section 7(A) of the NPDES Permit;
 - k. Failure to perform a re-test within 30 days of the July 23, 2019, aquatic toxicity failure as required by Section 8(A) of the NPDES Permit;
 - l. Failure to provide a detailed explanation of the cause of the January 14, 2020, and February 25, 2020, aquatic toxicity failures and corrective actions taken on the DMR as required by Section 7(A) of the NPDES Permit;
 - m. Failure to obtain prior approval for the use of treatment chemicals as required by RCSA 22a-430-3(i); and
 - n. Failure to develop an Operation and Maintenance Plan (“O&M Plan”) that fully describes the operation and maintenance of the systems as required by RCSA 22a-430-3(f).
14. On May 3, 12, 17 and 26, 2023 and June 2, 7, 9 and 12, 2023, Respondent provided its response to Notice of Violation No. NOVWRIN23006 demonstrating compliance.
- B. With the agreement of Respondent, the Commissioner, acting under §22a-6, §22a-424, §22a-425, §22a-427, §22a-430, §22a-431, §22a-432, and §22a-438 of the CGS, orders Respondent as follows:
1. Civil Penalty. On or before thirty (30) days after issuance of this consent order, Respondent shall pay a penalty of eighty-eight thousand five hundred dollars (\$88,500.00) as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraphs A.4 through A.13 of this consent order.

State of Connecticut v. Dunn Paper – East Hartford, LLC.
Consent Order No. COWRIN23002
Page 5 of 9

2. Payment of Penalties. Respondent has agreed to fund a supplemental environmental project or projects as selected by DEEP, therefore payment of penalties under this consent order shall be as described in paragraphs B.3 and B.4.
3. On or before thirty (30) days after the date of issuance of this consent order the Respondent shall pay twenty-two thousand one-hundred twenty-five dollars (\$22,125.00) of the total civil penalty. The payment shall be mailed or personally delivered to DEEP, 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 Materials Management and Compliance Assurance, Water Permitting and Enforcement Division, civil penalty, Consent Order No. COWRIN23002.**" The Respondent shall also provide a completed IRS Form W-9 to DEEP staff.
4. Supplemental Environmental Project.
 - a. On or before thirty (30) days after the date of issuance of this consent order the Respondent shall fund a supplemental environmental project ("SEP") or projects as selected by DEEP by paying sixty-six thousand three-hundred seventy-five dollars (\$66,375.00) of the total civil penalty to the Statewide SEP Account. 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, Connecticut 06106-5127, and shall be by certified or bank check payable to the "**Connecticut Department of Energy and Environmental Protection**". The check shall state on its face, "**Bureau of Materials Management and Compliance Assurance, Water Permitting & Enforcement Division, civil penalty, Consent Order No. COWRIN23002**" with notation thereon "**Statewide SEP Account.**"
 - b. If Respondent fails to fully fund the SEP in accordance with paragraph B.4.a above, Respondent shall immediately pay a civil penalty of eighty-eight thousand five hundred dollars (\$88,500.00). Respondent shall pay such civil penalty in accordance with the provisions of paragraph B.3 of this consent order.
 - c. 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.
 - d. If and when Respondent disseminates any publicity, including but not limited to any press releases regarding funding a SEP, Respondent shall include a statement

State of Connecticut v. Dunn Paper – East Hartford, LLC.
Consent Order No. COWRIN23002
Page 6 of 9

that such funding is in partial settlement of an enforcement action brought by the Commissioner.

5. 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.
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 Respondent or 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 §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.

State of Connecticut v. Dunn Paper – East Hartford, LLC.
Consent Order No. COWRIN23002
Page 7 of 9

10. 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.
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 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. 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 the 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 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.
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 fifteen (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.

State of Connecticut v. Dunn Paper – East Hartford, LLC.
Consent Order No. COWRIN23002
Page 8 of 9

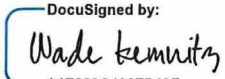
18. Notification of noncompliance. In the event that Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this consent order or of any document required hereunder, Respondent shall immediately notify by telephone the individual identified 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 Robin Long at robin.long@ct.gov using the subject line "COWRIN23002".

State of Connecticut v. Dunn Paper – East Hartford, LLC.
Consent Order No. COWRIN23002
Page 9 of 9

The 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. A corporate resolution granting such authorization is attached hereto as Exhibit A.

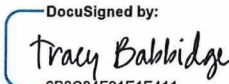
DUNN PAPER – EAST HARTFORD, LLC.

BY: 
A4E063C436FB49F
Wade Kemnitz
President and CEO

9/26/2023

Date

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


6B3C84F91E1E411...
Tracy Babbidge
Acting Deputy Commissioner

10/2/2023

Date

ORDER NO. COWRIN23002
TOWN OF EAST HARTFORD LAND RECORDS

Exhibit A
Consent Order # COWRIN23002

Corporate Resolution

Dunn Paper – East Hartford, LLC

I, *William Chastain*, Secretary of Dunn Paper – East Hartford, LLC (the “Company”), do hereby certify that on *11/15/2022*, *Wade Kemnitz* was employed by the Company, and that he remains as *President* at this time.

I further certify that such person, is duly authorized by Section 3.2(e) of the Second Amended and Restated Limited Liability Company Agreement of the Company, with any amendments thereto (the “LLC Agreement”) (true and correct copy attached) to execute, in the name of the Company, any and all contracts and other written obligations, including, but not limited to administrative consent orders with the Connecticut Department of Energy and Environmental Protection with respect to environmental matters. In addition, such person is duly authorized by Section 3.2(e) of the LLC Agreement to submit documents to the Department of Energy and Environmental Protection on behalf of the Company.

This resolution shall remain in effect and binding upon the Company at the time such name change occurs.

Date: 10/11/2023



William Chastain
Secretary
Dunn Paper – East Hartford, LLC

L.S.

[Seal]

Subscribed and sworn to before me this 11th day of October, 2023.

Kassie Jo Weeks
Notary Public
My Commission Expires: 06/23/2025



Certificate of Corporate Secretary

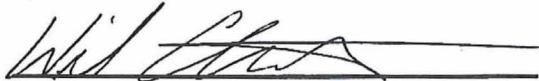
Dunn Paper – East Hartford, LLC

I, *William Chastain*, Secretary of *Dunn Paper – East Hartford, LLC* (the "Company"), do hereby certify that on *October 11, 2023*, the following resolution was duly approved at a meeting of the sole Member of the Company.

Resolved:

That *Wade Kemnitz*, *President* of *Dunn Paper – East Hartford, LLC* (the "Company"), is hereby authorized to enter into a certain administrative consent order between the State of Connecticut, Department of Energy and Environmental Protection and the Company, on behalf of the Company;

Date: 10/11/2023


William Chastain
Secretary
Dunn Paper – East Hartford, LLC

[Seal] *L.S.*

Acknowledgement of Corporate Secretary:

State of ~~Connecticut~~ *Tennessee*
County of *Hamilton* ss. _____

On this, the *11th* day of *October*, 2023, before me, *Kassie Jo Weeks*, the undersigned officer, *William Chastain*, personally appeared, who acknowledged himself to be the Secretary of *Dunn Paper – East Hartford, LLC*, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by him/herself as Secretary.

In witness whereof I hereunto set my hand.




Notary Public
Date Commission Expires: *09/23/2025*

