



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OF CONNECTICUT

V.

CITY OF SHELTON

CONSENT ORDER No. CO WR SW 11 005

Date of Issuance October 14, 2011

A. With the agreement of City of Shelton ("Respondent"), the Commissioner of Energy and Environmental Protection finds:

1. Respondent is a municipality which discharges stormwater associated with industrial activity from its facility located at 41 Myrtle Street in Shelton, Connecticut ("stormwater discharge").
2. Since April 24, 1998, Respondent's stormwater discharge has been covered under the General Permit for the Discharge of Stormwater Associated with Industrial Activity ("Industrial Stormwater General Permit") issued on October 1, 2002, modified July 15, 2003, reissued October 1, 2007, reissued October 1, 2008, and reissued April 14, 2009 pursuant to Connecticut General Statute 22a-430b.
3. Respondent is required to monitor its stormwater discharge annually between October 1st and September 30th in accordance with Subsection 5(c) of the Industrial Stormwater General Permit. Since October 1, 2006, Respondent failed to monitor its stormwater discharge in accordance with the Industrial Stormwater General Permit during the following periods: 2003-2004, 2004-2005, and 2005-2006, and 2007-08.
4. On May 13, 2008, Notice of Violation NOV WR SW 08 031 was issued to the Respondent for failure to sample stormwater for the years 2004, 2005, 2006, and 2007. Respondent responded to the NOV and partially complied to the NOV by collecting 2 makeup samples.
5. By virtue of the above, Respondent has violated a permit issued under §22a-430b of the Connecticut General Statutes.

B. With the agreement of Respondent, the Commissioner, acting under 22a-6, §22a-424, §22a-425, §22a-427, §22a-428, §22a-430, §22a-430b, and §22a-438 of the Connecticut General Statutes, orders Respondent as follows:

1. On or before one-hundred-twenty (120) days after the date of issuance of this consent order, Respondent shall review its SWPPP and perform a Comprehensive Site Compliance Evaluation in accordance with Section 5 of the Industrial

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Stormwater General Permit. Respondent shall use the form included in Attachment A to this consent order ("form") to assist in performing such review and evaluation.

2. Within thirty (30) days after the date Respondent performs the review and evaluation required under paragraph B.3., Respondent shall submit in writing, for the Commissioner's review, the completed form, a summary of findings from Respondent's review and evaluation, and a discussion of corrective actions required and taken, including any updates or amendments to the Stormwater Pollution Prevention Plan necessary to make such plan complete or to otherwise comply with the general permit.
3. 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.
4. Penalty. Respondent agrees to the assessment of a civil penalty of \$7,000 as the total civil penalty to be sought by the Commissioner for past violations described in paragraphs A.3., A.4., and A.5. of this consent order to be satisfied by the following:

(a) Supplemental Environmental Project.

Respondent has agreed to undertake the following supplemental environmental project ("SEP") expenditure of at least seven thousand dollars (\$7,000), or make payment(s) as follows:

- i. On or before December 31, 2011, Respondent shall install a vehicle and/or equipment rinsewater/washwater recycle system at the public works facility located on 41 Myrtle Street, Shelton ("the public works site") to collect and recycle rinsewaters and washwaters generated at the public works site. Respondent shall complete such SEP and shall obtain any federal, state or local permit or approval necessary to carry out such SEP.
- ii. On or before fifteen (15) days of issuance of this consent order, Respondent shall eliminate the discharge of rinsewaters and washwaters from the public works site to the sanitary sewer, the municipal storm sewer system, wetlands, and/ or watercourses.
- iii. If Respondent fails to fund the SEP in accordance with paragraph B.4.a.i. above, Respondent shall, instead of funding such SEP, immediately pay a total civil penalty in the amount of \$7,000 plus \$2,500. Respondent shall pay such civil penalty in accordance with the provisions of paragraph B.5. of this consent order.
- iv. 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.

- v. 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.
5. Payment of penalties. Payment of penalties under this consent order 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 "Treasurer, State of Connecticut." The check shall state on its face, "Materials Management and Compliance Assurance, Water Permitting and Enforcement Civil Penalty, Consent Order No. CO WR SW 11 005."
6. Sampling and sample analyses. All sample analyses which are required by this consent order and all reporting of such sample analyses shall be conducted by a laboratory certified by the Connecticut Department of Public Health to conduct such analyses. All sampling and sample analyses performed under this order shall be performed in accordance with procedures specified or approved in writing by the Commissioner, or, if no such procedures have been specified or approved, in accordance with 40 CFR 136. Unless otherwise specified by the Commissioner in writing, the value of each parameter shall be reported to the maximum level of precision and accuracy specified in the applicable protocol, and if no such level is specified, to the maximum level of precision and accuracy possible.
7. 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.
8. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner. 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.
9. 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.

10. 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 may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."
11. 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.
12. 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.
13. 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.
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 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.

15. Respondent's obligations under law. Nothing in this consent order shall relieve 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 Respondent pursuant to this consent order will result in compliance or prevent or abate pollution.
17. Access to site. Any representative of the Department of Energy and Environmental Protection may enter Respondent's site or 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 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.
20. 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.
21. 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:

Donna Seresin, Sanitary Engineer 3
Department of Energy and Environmental Protection
Bureau of Materials Management and Compliance Assurance
Water Permitting 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.

BY: (Signature:) Mark A. Carvelli
(Print Name): mark A Carvelli
(Print Title): mayor
9.22.11
Date

Issued as a final order of the Commissioner.

[Signature]
for Daniel Esty
Commissioner
Department of Energy and Environmental Protection

10/13/11
Date

City of Shelton
Land Records

ATTACHMENT A

**COMPREHENSIVE SITE COMPLIANCE
EVALUATION ["CSCE"] FORM**

Facility Name:

SIC Code: _____

Site Address:

Town: _____

ZIP Code: 06 _____

Phone #: _____

Permit #: GSI

INSPECTION RESULTS:

Inspection Date: _____

Inspector Name & Title:

Employer Name/Address:

Does facility have a Stormwater Pollution Prevention Plan for the site? Yes

No

(If No, \checkmark all applicable)

Stormwater discharges only to groundwater

Category 10, no exposure

Combined Sewer Overflow (CSO)

Other

(Describe: _____)

Has the facility performed stormwater monitoring at the site? Yes No

(If Yes, include months/years of SW sampling:)

Are the stormwater sampling results included in the Plan? Yes No

If not, include a copy of the sampling results with the Plan

Does the facility have training logs? Yes No

(If Yes, include months/years trained:)

Have any CSCEs been performed at the site? ___ Yes ___ No
(If Yes, include months/years:)

List all materials exposed to stormwater at the site, and any other comments:

Facility Name: _____

STORMWATER POLLUTION PREVENTION PLAN CHECKLIST

A complete Stormwater Pollution Prevention Plan ("plan") must be fully developed, implemented and kept current in accordance with the General Permit for the Discharge of Stormwater Associated with Industrial Activity Issued on October 1, 2008, reissued April 14, 2009 ("general permit"). A complete plan shall include, but not be limited to, the following key elements which are described more fully in the general permit. This checklist shall be used in conjunction with the general permit when the Respondent is evaluating the adequacy and completeness of the plan.

1. STORMWATER POLLUTION PREVENTION TEAM [Section 5(b)(6)(A) of the general permit].

Y N

- Team Members are identified in the plan.
- Team Member's responsibilities for plan development, implementation, maintenance and revision are clearly identified in the plan.

2. DESCRIPTION OF POLLUTANT SOURCES [Section 5(b)(6)(B) of the general permit].

A. Site map [Section 5(b)(6)(B)(i)1 of the general permit] contains the following:

Y N

- Drainage areas of each stormwater outfall
- Structural control measures to reduce pollutants in stormwater
- Name of receiving surface water body or municipal stormwater system
- Location of materials exposed to precipitation
- Location of major spills and leaks
- Location of Fueling Stations
- Vehicle & equipment maintenance or cleaning areas
- Loading/unloading areas
- Waste treatment, disposal or storage areas
- Processing areas
- Materials storage areas

B. Plan contains a description of the stormwater discharge [Section 5(b)(6)(B)(i)2 of the general permit].

Y N

- Direction of stormwater flow indicated
- Types of pollutants likely to be present in stormwater discharge
- Potential for discharge to cause erosion

Facility Name: _____

C. Plan contains an inventory of exposed materials [Section 5(b)(6)(B)(ii) of the general permit]

Y N

- Tabular inventory of materials that have been or may be exposed to stormwater
- Method and location of on-site storage or disposal
- Materials management practices to minimize stormwater contact
- Location and description of structural and non-structural controls to reduce stormwater pollution
- Description of existing stormwater treatment

D. Plan contains a narrative summary of potential pollutant sources [Section 5(b)(6)(B)(ii) of the general permit].

Y N

- Loading & unloading operations
- Roof areas
- Outdoor storage activities
- Outdoor manufacturing or processing activities
- On-site waste disposal practices
- List of potential sources of pollution and the associated pollutants

E. Leaks and spills [Section 5(b)(6)(B)(iii) of the general permit].

Y N

- List & location of spills or leaks greater 5 gallons that could affect stormwater quality at the site.

F. Stormwater monitoring program [Section 5(b)(6)(B)(iv) of the general permit].

Y N

- Description of monitoring program and stormwater sampling data.

3. MEASURES AND CONTROLS [Section 5(b)(6)(C) of the general permit].

The plan shall describe stormwater management controls appropriate for the facility including, but not limited to, the following:

Y N

- Good housekeeping; i.e. provisions for maintaining a clean, orderly facility [Section 5(b)(6)(C)(i) of the general permit].
- Prohibition against equipment or vehicles washing that would allow washwaters to enter a storm drainage system or a waterbody [Section 5(b)(6)(C)(ii) of the general permit].
- Provision that all floor drains connected to storm sewers are either sealed or approved and permitted by the Commissioner [Section 5(b)(6)(C)(ii) of the general permit].

Facility Name: _____

- A. Roof areas [Section 5(b)(6)(C)(iii) of the general permit].
 Y N
 Location of roof areas which may be a source of stormwater pollution (e.g., vent or exhaust drippage).
 Program for inspecting such roof areas.
 Workplan and schedule for eliminating potential pollution from roof areas.
- B. Sediment and erosion control [Section 5(b)(6)(C)(iv) of the general permit].
 Y N
 Identify potential erosion areas
 Identify erosion control measures
- C. Preventive maintenance [Section 5(b)(6)(C)(v) of the general permit].
 Y N
 Program for inspecting and maintaining stormwater management devices
 Program for inspecting, maintaining and testing on-site equipment and systems that could, in the event of failure or breakdown, result in a discharge of pollutants to surface waters.
- D. Spill prevention and response procedures [Section 5(b)(6)(C)(vi) of the general permit].
 Y N
 Provision for covering dumpsters to prevent releases to stormwater drainage systems
 Potential spill locations and the accompanying drainage points
 Spill response procedures
 Provisions for impervious containment for all chemical storage and roof coverage for each container with a capacity of less than 100 gallons
- E. Employee training program and schedule [Section 5(b)(6)(C)(vii) of the general permit].
 Y N
 Employee training program, schedule and training topics.
- F. Non-stormwater discharges [Section 5(b)(6)(C)(viii) of the general permit].
 Y N
 Written PE Certification
 Description of all testing and evaluation methods used, the dates and results of any testing/evaluation, and drainage locations tested
- G. Management of runoff [Section 5(b)(6)(C)(ix) of the general permit].
 Y N
 Discussion of the need for stormwater management or treatment beyond source control practices
 Description of management or treatment measures to be implemented
- H. Inspections [Section 5(b)(6)(C)(x) of the general permit].

Facility Name: _____

Y N

- List of qualified personnel to inspect designated equipment and areas
 Procedures for corrective action to be undertaken following inspection
 Provision for maintaining inspection records at the facility

4. COMPREHENSIVE SITE COMPLIANCE EVALUATION ("CSCE")
[Section 5(b)(6)(D) of the general permit].

Y N

- Provision for conducting a CSCE at least twice a year.
 CSCE shall provide for (List Yes, No, or N.A. where not applicable):
 _____ inspection of material handling areas and other potential sources of pollution.
 _____ operational evaluation of stormwater management measures, erosion control measures, and other pollution prevention measures.
 _____ inspection of equipment needed to implement plan, e.g., spill response
 _____ preparation of an inspection report discussing scope, inspection dates, personnel, observations, action taken, and updates to plan

5. DISCHARGE TO MUNICIPAL SEPARATE STORM SEWER SYSTEMS SERVING A POPULATION OF 100,000 OR MORE [Section 5(b)(6)(E) of the general permit].

_____ Description of how the site shall comply with applicable municipal stormwater management requirements (List Yes, No, or N.A. if not applicable).

6. CONSISTENCY WITH OTHER PLANS [Section 5(b)(6)(F) of the general permit].

Y N

- The plan may reference requirements contained in a Spill Prevention Control and Countermeasure ("SPCC") plan or other spill control plan required under federal, state or local law.

 List Name and Date of Plan (or N.A. if not applicable)

7. COVERAGE OF SALT STORAGE PILES [Section 5(b)(6)(G) of the general permit].

_____ Provision for covering salt storage piles, including pure salt or salt mixed with other materials, which may come into contact with stormwater (List Yes, No, or N.A. if not applicable).

