



STATE OF CONNECTICUT

V.

TRADEBE ENVIRONMENTAL SERVICES, LLC

CONSENT ORDER # COWSWDH17004

Date Issued: June 30, 2017

A. With the agreement of Tradebe Environmental Services, LLC ("Respondent"), the Commissioner of Energy and Environmental Protection ("the Commissioner") finds the following:

1. Respondent is a limited liability corporation registered to do business in Connecticut with the Connecticut Secretary of the State, which leases and operates the property located at 357 West Main Street in Meriden, Connecticut (the "Site"), and owns and operates the property located at 136 Gracey Avenue, Meriden, Connecticut (the "Gracey Ave. Site"). The Respondent claims to operate the Site by handling, storing and processing only used oil that meets the specifications listed in 40 CFR 279.11, thereby, eliminating the need to obtain a permit to conduct such activities in accordance with Section 22a-449(c)-119(e) of the Regulations of Connecticut State Agencies ("RCSA") and Section 22a-454 of the Connecticut General Statutes ("CGS"). The Respondent is a used oil marketer at the Gracey Ave. Site and as such serves as the first person in accordance with 40 CFR 279 to claim that qualifying used oil being shipped from the Gracey Ave. Site for energy recovery meets the specifications listed in 40 CFR 279.11.
2. Respondent is or has been a generator of hazardous waste at the Site and the Gracey Ave. Site (Small Quantity Generator, and Large Quantity Generator, respectively).
3. Based on the findings of inspections of the Site and the Gracey Ave. Site performed by the Department of Energy and Environmental Protection ("the Department"), Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division ("the Department"), on August 31st, 2016 and September 2nd, 2016, the Department finds Respondent has:
 - a. Failed to adequately demonstrate that used oil fuel received at the Site for energy recovery meets the specifications of 40 CFR 279.11 as required by Section 22a-449(c)-119(a)(2)(VVV) of the RCSA which incorporates by reference 40 CFR 279.72(b) with specified changes. Specifically, the Department found at least six (6) shipments of used oil fuel received at the Site were not analyzed for all parameters necessary to demonstrate that such shipments met the specifications listed in 40 CFR 279.11.
 - b. Failed to adequately demonstrate that used oil fuel received at the Site for energy recovery is not a hazardous waste by ensuring that the total halogen content of each shipment received is less than or equal to 1,000 parts per million as required by Section 22a-449(c)-102(a)(2)(OO) of the RCSA, which incorporates by reference 40 CFR 279.53(a) with specified changes. Specifically, the Department found at least one shipment of used oil fuel received at the Site was not analyzed for total halogen content.

- c. Failed to obtain a permit to conduct the activities of collecting, transferring, storing or treating waste oils, petroleum or chemical liquids or hazardous waste at the Site in accordance with Connecticut's hazardous waste management regulations (Section 22a-449(c)-119(e) of the RCSA and Section 22a-454 of the CGS). Specifically, the Department found Respondent handled, stored and processed used oil at the Site which did not include all necessary analytical results required to demonstrate such used oil met specifications listed in 40 CFR 279.11. As a result, a respective permit was needed.
 - d. Failed to properly label an above-ground tank used to store or process used oil clearly with the words "Used Oil" as required by Section 22a-449(c)-119(a)(1) of the RCSA, which incorporates by reference 40 CFR 279.54(f). Specifically, the Department found Tank "F", which contained used oil at the time of the inspection was not labelled with the words "Used Oil".
 - e. Failed to adequately demonstrate that used oil fuel shipped from the Gracey Ave. Site for energy recovery meets the specifications of 40 CFR 279.11 as required by Section 22a-449(c)-119(a)(2)(VVV) of the RCSA, which incorporates by reference 40 CFR 279.72(b) with specified changes. Specifically, the Department found at least six (6) shipments of used oil shipped from the Gracey Ave. Site for energy recovery were not analyzed for all parameters necessary to demonstrate such used oil met the specifications listed in 40 CFR 279.11.
 - f. Failed to adequately demonstrate that used oil fuel shipped from the Gracey Ave. Site for energy recovery is not a hazardous waste by determining that the total halogen content of each shipment is less than or equal to 1,000 parts per million as required by Section 22a-449(c)-102(a)(2)(OO) of the RCSA, which incorporates by reference 40 CFR 279.53(a) with specified changes. Specifically, the Department found at least one shipment of used oil fuel shipped from the Gracey Ave. Site for energy recovery was not analyzed for total halogen content.
4. On December 21, 2016, the Department issued Notice of Violation No. WSWDH16095 to Respondent to correct the violations listed in paragraph A.3 of this consent order.
 5. In correspondence received on January 30, 2017, Respondent represented that the violations corresponding to those in cited in paragraph A.3 of this consent order have been resolved.
 6. By virtue of the above, the Department finds that Respondent has violated Sections 22a-449(c)-102 and 119 of the RCSA, as well as Section 22a-454 of the CGS.
- B. With the agreement of Respondent, the Commissioner, acting under Sections 22a-6, 22a-131, and 22a-449 of the CGS, orders Respondent as follows:
1. Respondent shall maintain all hazardous waste handling procedures and facilities in compliance with all the applicable provisions of the RCSA Section 22a-449(c)-100, et. seq., in accordance with the following schedule:
 - a. On or before **thirty (30) days** after issuance of this consent order, Respondent shall designate and assign an environmental compliance expert who may be a full-time employee of the Respondent, and/or retain one or more qualified consultants, acceptable to the Commissioner, to prepare the documents and implement or oversee the actions required by this consent order and shall, by that date, notify the Commissioner in writing of the identity of such environmental compliance expert and/or consultants. Respondent shall assign such environmental compliance expert and/or retain such qualified consultant, acceptable to the Commissioner, until paragraph B. 1 of this consent order is fully complied with, and, within **ten (10) days** after assigning or retaining any environmental compliance expert or consultant for the purpose of addressing the actions required by this consent order, other than one originally identified under this paragraph, Respondent shall notify the Commissioner in writing of the identity of such other environmental compliance expert or consultant. Respondent shall submit to the Commissioner a description of the assigned environmental

compliance expert's or consultant's education, experience and training which is relevant to the work required by this consent order within **ten (10) days** after a request for such a description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable compliance expert or consultant unacceptable.

- b. On or before **sixty (60) days** after the date of issuance of this consent order, Respondent shall submit for the Commissioner's review and written approval a plan detailing all actions and/or operational changes to ensure that the Site only accepts on-specification used oil fuel. This plan must include a description of measures to ensure that, for any receipts of used oil, facility operators will expect to receive a copy of analyses proving that the used oil is on-specification used oil before accepting the material at the facility as required by RCSA Section 22a-449(c)-119. Additionally, copies of analyses for all shipments received at the Site shall be maintained at the Site in accordance with retention schedules as specified in RCSA Section 22a-449(c)-119, incorporated by reference in 40 CFR 279.53(d).
 - c. On or before **thirty (30) days** after approval of the plan required under Paragraph B.1.b above, Respondent shall implement such plan.
 - d. On or before **ninety days (90) days** after the date of issuance of this consent order, Respondent shall submit for the Commissioner's review and written approval a plan detailing additional actions taken and/or operational changes made to ensure future compliance with the requirements of RCSA Sections 22a-449(c)-102, 22a-449(c)-119 and 22a-454 at the Site and the Gracey Ave. Site. Within ten (10) days after the Commissioner approves such plan, Respondent shall carry out the plan and maintain it in full effect thereafter.
 - e. On or before **ninety days (90) days** after the date of issuance of this consent order, Respondent shall conduct a comprehensive recycling review of its Connecticut locations to evaluate compliance with Connecticut's recycling laws set forth in CGS Section 22a-241b(d) and submit for the Commissioner's review and written approval a business recycling profile for each location documenting the management of recyclable materials. Refer to the enclosed example profile, which has been marked as Appendix A. Within **five (5) days** after the Commissioner approves such plan(s), Respondent shall carry out the plan(s) and maintain them in full effect thereafter.
2. 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.
 3. Status of Notice of Violation No. WSWDH 16095: This consent order supersedes Notice of Violation No. WSWDH 16095.
 4. Civil penalty. Respondent shall pay a penalty of twenty five thousand five hundred dollars (**\$25,500**) as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraph A.3 of this consent order. The penalty shall be paid as follows: Respondent shall remit an initial payment of twelve thousand two hundred fifty dollars (\$12,250) within thirty (30) days of the date of issuance of this consent order and a second payment of twelve thousand two hundred fifty dollars (\$12,250) on or before ninety (90) days thereafter. These payments must be made in accordance with the protocol described in paragraph B.6 below.
 5. Supplemental Environmental Project. In lieu of making the final payment installment prescribed in paragraph B.4 above, Respondent may comply with the requirements of paragraph B.5.a below regarding supplemental environmental projects ("SEP").

a. Performance of SEP(s)

- (1) On or before forty-five (45) days after the date of issuance of this Consent Order, Respondent shall submit for the Commissioner's review and written approval a proposal to perform one or more SEPs ("proposal"), according to the Department's February 15, 1996 "Policy on Supplemental Environmental Projects". The proposal shall include:
 - i. a detailed description of each SEP,
 - ii. itemized costs to be incurred by Respondent in carrying out each SEP,
 - iii. documentation to support such cost estimates,
 - iv. an explanation as to why each SEP is being proposed,
 - v. a proposed schedule (of not more than 180 days) for implementation and completion of each SEP, and
 - vi. a description of the benefit of each SEP to the general public or the environment.

Respondent shall be credited up to twelve thousand two hundred and fifty dollars (\$12,250) to partially fund any SEP(s).

(2) The Commissioner will either:

- i. approve the proposal, including in such approval the dollar amount of the penalty offset to be realized by Respondent attributable to the SEP(s) and any additional conditions deemed necessary by the Commissioner; or
- ii. disapprove the proposal and notify Respondent, in writing, of deficiencies in the proposal and any additional actions or information required to be taken or supplied by Respondent.

The decision to approve or disapprove an SEP shall be in the sole discretion of the Commissioner.

- (3) If the dollar amount of the penalty offset attributable to the approved SEP(s) is less than twelve thousand two hundred and fifty dollars (\$12,250), Respondent shall pay the difference in accordance with a revised schedule established by the Commissioner.
- (4) Respondent shall not be given credit, or reduction in the civil penalty provided for by this paragraph if SEP included in an approved proposal is not fully complied with. If Respondent fails to fully perform any SEP in accordance with the proposal approved pursuant to Paragraph B.5.a.(2)i., Respondent shall immediately notify the Commissioner in writing of such noncompliance and shall, upon written request by the Commissioner, remit a payment equal to the total estimated cost, as determined by the Commissioner, of all such SEP(s), plus either two thousand five hundred dollars (\$2,500) or 10% of such total estimated cost, whichever is greater. Respondent shall make such payment in accordance with the remittance procedures for unexpended SEP funds in subparagraph B.5.a.(10) of this Consent Order.
- (5) The net present after-tax value of the SEP(s) shall be equivalent to the sum(s) identified in this paragraph or Respondent shall submit certified documentation that no tax credits shall be obtained as a result of SEP(s) performed under this paragraph.
- (6) If and when Respondent disseminates any publicity, including but not limited to any press releases regarding funding an SEP, Respondent shall include a statement that such funding is in partial settlement of an enforcement action brought by the Commissioner.

- (7) 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.
 - (8) On or before thirty (30) days after completion of each SEP, Respondent shall submit for the Commissioner's review and written approval a comprehensive final report that certifies completion of each SEP. Such final report shall include, at a minimum:
 - i. a narrative history of the project
 - ii. detailed explanation of its design and implementation,
 - iii. summary of any data collected,
 - iv. complete final accounting of actual project costs including receipts for out-of-pocket costs, and
 - v. a discussion of environmental benefits resulting from each SEP.
 - (9) Should the Commissioner determine that the actual cost to Respondent in completing an SEP is less than the estimated cost identified in the proposal approved by the Commissioner in accordance with paragraph B.5.a.(2)i., Respondent shall pay the difference between such actual cost and estimated cost to the Commissioner as unexpended SEP funds. The Commissioner shall notify Respondent in writing of the amount of any such unexpended SEP funds which are due.
 - (10) Respondent shall, within fourteen (14) days after the date of such written notice, remit the full amount of the unexpended SEP Funds. Payment of unexpended SEP funds shall be by certified or bank check payable to "Connecticut Department of Energy and Environmental Protection." The check shall state in the memo notation, "Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division civil penalty" and the Consent Order number identified at the top of page one of this Consent Order. Any payment shall be made in accordance with paragraph B.6.
6. 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 the "Connecticut Department of Energy and Environmental Protection." The check shall state on its face, "Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division, civil penalty" and the consent order number identified on the first page of this consent order. A copy of the check as well as any transmittal letter shall be mailed or delivered to Julie Dutton, Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division at the same address.
 7. Sampling and sample analyses. All sampling and 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 sampling and 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 EPA document SW-846. 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.
 8. 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 thirty (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 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 Section 22a-430-3(b)(2) of the RCSA, 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."
12. Noncompliance. This consent order is a final order of the Commissioner with respect to the matters addressed herein, and is non-appealable and immediately enforceable. Failure to comply with this consent order may subject Respondent to an injunction and penalties.
13. False statements. Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under Section 53a-1 57b of the CGS and any other applicable law.
14. 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.
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 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.

16. Respondent's obligations under law. Nothing in this consent order shall relieve 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 Respondent pursuant to this consent order will result in compliance or prevent or abate pollution.
18. Access to Site. Any representative of the Department of Energy and Environmental Protection may enter the Site 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 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.
21. 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.
22. 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:

Evelyn Silva, Environmental Analyst
Department of Energy and Environmental Protection
Bureau of Materials Management and Compliance Assurance
Waste Engineering and Enforcement Division
79 Elm Street, 4th Floor
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.

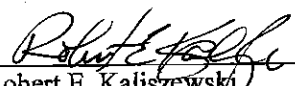
TRADEBE ENVIRONMENTAL SERVICES, LLC



BY: Tita LaGrimas, Vice President of Regulatory Affairs

June 28, 2017
Date

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



Robert E. Kaliszewski
Deputy Commissioner

6/30/17

Date

Consent Order # COWSWDH17004