



STATE OF CONNECTICUT

V.

ALBEA THOMASTON INC.

CONSENT ORDER No. COWSWDH18005

Date Issued: August 8, 2018

- A. With the agreement of Albea Thomaston, Inc. ("Respondent"), the Commissioner of Energy and Environmental Protection ("the Commissioner") finds:
1. Respondent is a Connecticut Corporation registered to do business with the Connecticut's Secretary of State with the business and mailing address of 60 Electric Avenue located in Thomaston, Connecticut (the "Site").
 2. The Respondent is or has been a generator of hazardous waste.
 3. Based on an inspection conducted by the Department of Energy and Environmental Protection ("DEEP"), Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division, on January 11, 2018, Respondent:
 - a. Failed to use the proper manifest name of the current generator, Albea Thomaston, Inc. hereinafter, ("Albea") on the Uniform Hazardous Waste Manifest form (EPA Form 8700-22, Item 5) as required by Section 22a-449(c)-102(a) of Regulations of Connecticut State Agencies ("RCSA"), incorporating Title 40 of the Code of Federal Regulation ("40 CFR") 262.20(a). Specifically, the current generator, Albea utilized the prior generator's name (Rexam Dispensing System) consistently throughout its shipment of hazardous waste off site.
 - b. Failed to perform annual hazardous waste determinations as required by Section 22a-449(c)-102(a)(2)(A) of RCSA, incorporating 40 CFR 262.11 with specified changes. Specifically, there was no annual hazardous waste determination conducted at the Site since 2005.
 - c. Failed to have interim status or obtain a permit from the Commissioner prior to storing hazardous waste at the facility for greater than 90 days as required by RCSA 22a-449(c)-102(a)(2)(L), incorporating 40 CFR 262.34(b). Specifically, the company, a small quantity generator of hazardous wastes, routinely accumulated

greater than 1000 kg (2,200 lbs) of hazardous waste on numerous occasions based on the manifest records: (a) 2,375 lbs. in August 2017; (b) 2,375 lbs. in February 2017; (c) 2,850 lbs. in July 2016; (d) 2,375 lbs. in April 2016; and (e) 2,375 lbs. in May 2015.

- d. Failed to record inspections in an inspection log or summary and keep these records as required by Section 22a-449(c)-102(b)(2) of the RCSA, incorporating 40 CFR 265.15(d). Specifically, certain inspection logs were incomplete and no inspection were recorded completed between mid-2015 and November 2017.
- e. Failed to have facility personnel successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures that the facility's compliance with hazardous waste management requirements as required by Section 22a-449(c)-102(a)(2)(K) of the RCSA, incorporating 40 CFR 262.34(a)(4) and 265.16(a) and (b).
- f. Failed to have facility personnel take part in an annual review of the required initial training as required by RCSA Section 22a-449(c)-102(a)(2)(K), incorporating 40 CFR 262.34(a)(4) and 265.16(c).
- g. Failed to list and keep up to date names, addresses and phone numbers of all persons qualified to act as emergency coordinator as required by Section 22a-449(c)-102(a)(2)(K) of the RCSA, incorporating 40 CFR 262.34(a)(4) and 265.52(d).
- h. Failed to label containers accumulating hazardous wastes with the words "Hazardous Waste" and other words that identify the contents of each container as required by Section 22a-449(c)-102(a)(2)(J) of the RCSA, incorporating 40 CFR 262.34(a)(3) with specified changes. Specifically, four (4) 55- gallon drums containing sodium hydroxide waste were not labeled with the words "Hazardous Waste" in the storage area.
- i. Failed to label or mark clearly containers used to store used oil with the words "Used Oil" as required by the Section 22a-449(c)-119(a)(1) of the RCSA, incorporating 40 CFR 279.22(c). Specifically, two (2) - 55 gallon drums of used oil were not marked or label with the words "Used Oil" at the time of the inspection.
- j. Failed to place the accumulation start date on containers as required by Section 22a-449(c)-102(a)(1) of the RCSA, incorporating 262.34(a)(2). Specifically, at the time of the inspection six (6) 55 gallon drums (4 drums of sodium hydroxide plus 2 drums of waste flammable liquid) did not have the beginning dates of accumulation written on the drums.
- k. Combined previously segregated designated recyclables with other solid waste in violation of Section 22a-241b.(e) of the Connecticut General Statutes ("CGS"). Specifically, bags of designated recyclables (paper, bottles and cans) were commingled in a trash compactor.

4. By virtue of the above, Respondent has violated Sections 22a-449(c)-100 through 119 of the RCSA, incorporating 40 CFR Parts 260 through 279 and Chapter 446d of the CGS.
 5. On March 1, 2018, DEEP issued Notice of Violation No. WSWDH18006 to Respondent to correct the violations corresponding to those cited in subparagraphs A.3.a. through A.3.k. of this consent order.
 6. On May 11 and 16, 2018, DEEP received a submittal in response to Notice of Violation No. WSWDH18006 in which the Respondent reported that all violations in paragraph A.3. were addressed.
- B. With the agreement of Respondent, the Commissioner, acting under Sections 22a-6, 22a-208, 22a-225 and 22a-449 of the CGS, orders Respondent as follows:
1. Compliance. Respondent shall maintain its compliance with all applicable provisions of Connecticut's hazardous waste management regulations, Sections 22a-449(c)-100 through 119 of the RCSA, and Connecticut's recycling laws, Section 22a-241b of the CGS, including but not limited to generator requirements applicable to the volume of hazardous waste generated each calendar month and the management of recyclables. In particular:
 - a. On or before **sixty (60) days** after issuance of this consent order, Respondent shall submit for the Commissioner's review and written approval, a plan detailing additional actions and/or operational changes it has undertaken or will undertake to ensure compliance with Connecticut's hazardous waste management regulations, RCSA Sections 22a-449(c)-100, et. seq., including, but not limited to, those violations set forth in paragraph A.3. of this consent order. Within **ten (10) days** after the Commissioner approves such plan, Respondent shall carry out the plan and maintain it in full effect thereafter.
 - b. On or before **sixty (60) days** after issuance of this consent order, Respondent shall conduct a comprehensive recycling review of the facility to evaluate compliance with Connecticut's recycling laws as set forth in Section 22a-241b(d) of the CGS, and shall submit for the Commissioner's review and written approval a Business Recycling Profile documenting the management of recyclable materials at the Site. Refer to the enclosed Business Recycling Profile (Attachment A). Within ten (10) days after the Commissioner approves such plan, Respondent shall carry out the plan and maintain it 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. Civil penalty. On or before **fourteen (14) days** after issuance of this consent order, Respondent shall pay a penalty of **seven thousand eight hundred dollars (\$7,800)** 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.

4. 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 number identified on the first page of this consent order. A copy of the check and any transmittal letter shall also be sent to Ms. Julie Dutton, Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division at the same address.
5. 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.
6. 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.
7. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
8. 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.

9. 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 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."

10. 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.
11. 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.
12. 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.
13. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties pursuant to this consent order, 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 not otherwise addressed by this consent order. 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.


14. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
15. 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.
16. 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.
17. 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.
18. 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.
19. 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.
20. 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:

Mr. Denver Dixon, Sanitary Engineer 2
Bureau of Materials Management and Compliance Assurance
Waste Engineering and Enforcement Division
Department of Energy and Environmental Protection
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.

ALBEA THOMASTON, INC.

BY:


(Signature of the individual with authority to bind Respondent to terms of consent order)

Name (typed)

Daniel Estamey Noyah


Title

Site Director

Date

7-24-2018

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


Robert E. Kaliszewski
Deputy Commissioner


Date

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