

STATE OF CONNECTICUT

v.

NLR, INC.

CONSENT ORDER # WSWDH COWSWDH 18007

Date Issued: 12/10/2018

- A. With the agreement of NLR, Inc. ("Respondent"), the Commissioner of Energy and Environmental Protection ("the Commissioner") finds:
1. Respondent is a Connecticut corporation registered to do business in Connecticut with the Connecticut Secretary of the State.
 2. Respondent's registered business address listed with the Connecticut Secretary of the State is 256 Main Street, PO BOX 680, Suite B, East Windsor, Connecticut 06088.
 3. Respondent is or has engaged in the business of commercially storing and/or treating universal waste at 250 Main Street, East Windsor, Connecticut and more fully described as Assessor's Map 091, Block 15 and Lot 004 on the land records of the Town of East Windsor, Connecticut. The property will hereinafter be referred to as the "Main Street Site".
 4. Respondent had stored waste calcium phosphate powder at 8 Craftsman Road, East Windsor, Connecticut and more fully described as Assessor's Map 083, Block 19 and Lot 012E on the land records of the Town of East Windsor, Connecticut. The property will hereinafter be referred to as the "Craftsman Road Site". The Main Street and Craftsman Road properties will collectively be referred to as the "Sites".
 5. On June 24, 2014 the Department of Energy and Environmental Protection ("DEEP") issued Respondent Permit No. 04701160-PCO (the "Permit") to operate a commercial solid waste volume reduction plant at the Main Street Site in accordance with Section(s) 22a-208a and 22a-454 of the Connecticut General Statutes ("CGS") and Section 22a-209-4 of the Regulations of Connecticut State Agencies ("RCSA"). The Permit was modified on January 15, 2016.
 6. Staff from the Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division ("WEED") conducted a file review or otherwise obtained information indicating that a violation of law has occurred at the "Sites". More specifically, based on documentation submitted to DEEP by the Respondent via e-mail on January 30, 2017; documents hand delivered to DEEP by the Respondent on February 15, 2017; and Quarterly Environmental Compliance Audit ("QECA") Reports submitted by Anchor Engineering Services, Inc. ("Anchor") on behalf of the Respondent, WEED found that the Respondent failed to:

- a. **Operate the Main Street Site in accordance with Section I.A. of the Permit.** Based on information contained in the Respondent's January 30th e-mail to DEEP, at least five trailers containing 55-gallon drums of waste calcium phosphate powder (accumulated from the facility's mercury lamp processing operations) have been stored at Main Street Site. Storage of waste calcium phosphate powder in trailers at Main Street Site is not described in the permit application incorporated into the Permit; and the Permit does not otherwise authorize such storage. It is estimated that each trailer contains 80 -100 drums of waste calcium phosphate powder. A QECA Report submitted by Anchor on February 10, 2017, on behalf of the Respondent, also identifies that at least four trailers of waste calcium phosphate powder were being stored at Main Street Site during the January 27, 2017 QECA of the Sites.
 - b. **Report all instances of non-compliance with the Permit, as required by Section I.E.13.(d) of the Permit.** Specifically, the DEEP found that the non-compliant waste storage referenced in A.6.a., above, was not reported within the times frames prescribed by the Permit. The duration of non-compliance was significant, and was not identified by the Respondent until after DEEP requested information relevant to such storage.
 - c. **Obtain a permit prior to establishing, constructing and/or operating a solid waste facility without a respective permit issued by the Commissioner in accordance with Section 22a-208a of the CGS in violation of Sections 22a-208a(b) and 22a-208c of the CGS, as well as, Section 22a-209-4 and 22a-209-9 of the RCSA.** Specifically, DEEP discovered that greater than ten cubic yards of waste calcium phosphate powder had been received and stored at Craftsman Road Site without the required permit. Based on documentation submitted by the Respondent to DEEP on February 15th, two trailers containing approximately 150 55-gallon drums of waste calcium phosphate powder generated by Respondent were transported to Craftsman Road Site after being retorted at Southeast Recycling Technologies (located in Gray, Tennessee) in March of 2015. This waste was stored at Craftsman Road until it was shipped off-site to Turnkey Landfill located in Rochester, New Hampshire, in January 2017.
 - d. **Submit Quarterly Monthly Summaries, as required by Section I.E.13.(b) of the Permit.** Specifically, DEEP found that the Quarterly Reports required by Section I.E.13.(b) of the Permit had not been submitted to DEEP as required. This violation has been identified repeatedly during the QECAs conducted by Anchor, going back to at least the QECA conducted on July 17, 2013. In addition, DEEP brought this violation to Respondent's attention directly during a meeting DEEP held with the Respondent on November, 8, 2016.
7. By virtue of the above, the Respondent has violated Permit No. 04701160-PCO.
 8. On March 8, 2017, WEED issued Notice of Violation No. WSWDH17009 (the "Nov") to the Respondent to correct the violations corresponding to those cited in subparagraphs A.6.a. through A.6.d. of this consent order.
 9. Based on correspondence submitted to WEED on April 21, 2017, June 21, 2017, May 15, 2018, and May 16, 2018 Respondent has corrected the violations corresponding to those listed in subparagraphs A.6.a., A.6.b., A.6.c., and A.6.d. of this consent order.
 10. By agreeing to the issuance of this consent order, Respondent makes no admission of fact or law with respect to matters addressed herein other than the facts asserted in paragraphs A.1. through A.5. of this consent order.

- B. With the agreement of Respondent, the Commissioner, acting under Sections 22a-6, 22a-208, 22a-131, 22a-225, 22a-226, and 22a-449 of the CGS, orders Respondent as follows:
1. Compliance Assurance. On or before **ninety (90) days** after issuance of this consent order, Respondent shall submit for the Commissioner's review and written approval, a plan detailing actions it has taken, or will undertake, at the Sites to ensure compliance with Connecticut's solid and hazardous waste management regulations and Permit No. 04701160-PCO including, but not limited to: 1) actions taken to ensure compliance with the land disposal restriction requirements ("LDRs") required pursuant to the RCRA Section 22a-449(c)-108, incorporating, with specific changes, Title 40 of the Code of Federal Regulations ("CFR") Part 268; and 2) actions taken to ensure that non-PCB fluorescent light ballasts containing liquid capacitors (i.e., DEHP containing dielectric fluid) are sent to a facility authorized to accept such ballasts for recycling or disposal. Within **five (5) 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 for violations. Respondent shall pay a civil penalty of **twenty-four thousand dollars (\$24,000)** as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraph A.6. of this consent order. Payment shall be made in six (6) equal installments of **four thousand dollars (\$4,000)** in accordance with the provisions of paragraph B.4., according to the following schedule:
 - a. The first installment of **four thousand dollars (\$4,000)** shall be due and payable on or before **thirty (30) days** after the date of issuance of this consent order.
 - b. The next five installments of **four thousand dollars (\$4,000)** shall be due and payable **every thirty days (30) days** thereafter until the total amount of \$24,000 has been paid (on or before 180 days).
 4. Payment of penalties. Payment of penalties under paragraph B.3. of 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 "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. Copies of the check and any transmittal letter shall also be sent to Ms. Julie Dutton in the 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. Paul Franson, Environmental Analyst 3
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.

NLR, Inc.

BY:



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

RAYMOND W. GRACZYK
Name (typed)

PRESIDENT
Title

12/5/2018
Date

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


Robert E. Kaliszewski
Deputy Commissioner
Department of Energy and Environmental Protection

12/10/18
Date

Consent Order No. WSWDH 18007

Town of East Windsor Land Records