



**STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION**



STATE OF CONNECTICUT :
V. :
TOWN OF DEEP RIVER :

CONSENT ORDER # WSWDS10016

Date Issued: October 1, 2010

A. With the agreement of the Town of Deep River ("Respondent"), the Commissioner of Environmental Protection ("Commissioner") finds:

1. Respondent is a municipality which is maintaining an inactive solid waste disposal area located at 220 Winthrop Road (Route 80), Deep River, Connecticut, (the "site") shown on Map No. 33 as lot 1A in the Deep River Tax Assessor's Office and is more fully described in Volume 93 on page 797 in the Deep River Clerk's Office.
2. On March 16, 1982 the Commissioner, pursuant to §22a-208a of the Connecticut General Statutes (CGS), issued Respondent solid waste permit No. 036(b-m) ("permit") authorizing Respondent to continue operating the existing facility for the disposal of bulky waste. Paragraph No. 2 of the permit requires that the active facility shall strictly adhere to the development and operational plans, as prepared by Radcliffe Engineering and Russell A. McNutt, throughout the facility life.
3. On October 6, 2009 the Department of Environmental Protection's, Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division ("WEED") conducted an inspection of the site. The Respondent acknowledged that it had met with WEED staff on November 19, 2009 during which the Respondent acknowledged that it had ceased accepting solid waste approximately one and one-half (1½) years ago; that it agreed to prepare a revised closure plan for submission to the Commissioner; and, per a January 4, 2010 request, was awaiting further technical advice regarding the closure of the site in accordance with applicable sections of §22a-209-7, §22a-209-8 and §22a-209-13 of the Regulations of Connecticut State Agencies (RCSA).
4. On January 22, 2010, WEED issued Notice of Violation, No. WSWDS10012, to the Respondent for violations discovered during the inspection described in paragraph A.3. of this consent order. The notice required a response, which was

dated February 15, 2010 and received on February 23, 2010, the contents of which are acknowledged and accepted.

5. By virtue of the above, Respondent is in violation of certain provisions of §22a-209-4(e), §22a-209-13 of the RCSA, and permit No. 036(b-m), paragraphs: 2 and 18.
- B. With the agreement of the Respondent, the Commissioner, acting under §22a-6, §22a-208, and §22a-225 of the CGS as well as §22a-209-7 and §22a-209-8 of the RCSA orders the Respondent as follows:
1. Within thirty (30) days from the date of issuance of this consent order, Respondent shall provide documentation to the Commissioner that indicates (i) a Professional Engineer licensed to practice in the state of Connecticut (P.E.) or (ii) an environmental professional licensed pursuant to §22a-133v of the CGS, (the "consultants") have been retained by Respondent 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 retained consultants. Respondent shall retain one or more qualified consultants acceptable to the Commissioner until this consent order is fully complied with, and, within ten (10) days after retaining any consultant other than one(s) originally identified under this paragraph, Respondent shall notify the Commissioner in writing of the identity of such other consultant(s). Respondent shall submit to the Commissioner a description of a 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 prevent the Commissioner from finding a previously acceptable consultant unacceptable for just cause.
 2. Within one hundred twenty (120) days from the date of issuance of this consent order, Respondent shall submit for review and written approval of the Commissioner, a closure plan, as defined in §22a-207(26) of the CGS, for the site, in accordance with §22a-209-13 of the RCSA, that at a minimum addresses the following:
 - a. the installation of a landfill cap;
 - b. a plan for the post-closure monitoring and maintenance of the cap;
 - c. a plan for post-closure surface and ground water monitoring;
 - d. a plan for evaluating leachate quality as well as initiating and continuing leachate monitoring on a quarterly basis, including criteria for initiating corrective action, if needed;
 - e. a plan for post-closure use of the site; and,

- f. a municipal fiscal note concerning implementation which recognizes small town budgetary constraints and reasonable limitations associated with municipal funding.
3. Within ninety (90) days from the date of issuance of this consent order, Respondent shall submit to the Department an application, with the appropriate fee, for a permit to conduct activities associated with the closure and post-closure maintenance and monitoring of the site ("Stewardship Permit").
4. This consent order shall remain in effect until such time as the Stewardship Permit has been issued by the Commissioner. This consent order shall be deemed in full compliance only at such time as the Stewardship Permit has been issued by the Commissioner as a final permit.
5. Status of Notice of Violation No.WSWDS10012. This consent order supersedes and closes Notice of Violation No. WSWDS10012 issued on January 22, 2010.
6. Status of Notice of Violation No. JF-108. This consent order supersedes and closes Notice of Violation No. JF -108 issued on January 6, 1980
7. Status of Notice of Violation No.GR-36. This consent order supersedes and closes Notice of Violation No. GR-36 issued on October 14, 1982.
8. Status of Notice of Violation No.GR-72. This consent order supersedes and closes Notice of Violation No. GR-36 issued on February 27, 1985.
9. Progress reports: On or before the last day of March, June, September, and December of each year after issuance of this consent order, and continuing until all actions required by this consent order have been completed as approved and to the Commissioner's satisfaction, Respondent shall submit a progress report to the Commissioner describing the actions which Respondent has taken to date to comply with this consent order.
10. 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.
11. 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 consent 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 Analytical Detection Limit as defined in §22a-133k of the RCSA.

12. 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.
13. 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.
14. Dates. 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.
15. 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 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 CGS and any other applicable law."

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

21. 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.
22. Access to site. Any representative of the Department of 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.
23. 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.
24. 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.
25. 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.
26. 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. Stan Gormley, Environmental Analyst
Waste Engineering and Enforcement Division
Bureau of Materials Management and Compliance Assurance

Department of Environmental Protection
79 Elm Street
Hartford, CT 06106-5127

The undersigned certifies that he is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order.

Town of Deep River


Richard Smith, First Selectman

September 7, 2010

Date

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


Amey W. Marrella
Commissioner

9/30/10
Date

Consent Order No. WSWDS10016
Town of Deep River Land Records