



**STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION**



STATE OF CONNECTICUT

V.
AMERICAN WASTE RECYCLING, LLC.

CONSENT ORDER # WSWDS11004

Date Issued: February 22, 2011

A. With the agreement of American Waste Recycling, LLC., ("Respondent"), the Commissioner of Environmental Protection ("the Commissioner") finds:

1. Respondent is a Connecticut limited liability company, engaged in the business of waste wood processing at 2 Old Nod Road, Clinton ("the site").
2. On May 13, 2010, the Town of Clinton Zoning Enforcement Officer inspected the site and provided the Department with pictures and information on the site conditions indicating violations of the Solid Waste Management Regulations ("RCSA") section 22a-209-1 through section 22a-209-17.
3. On May 20, 2010, based on the pictures and information described in paragraph A.2 above, the Department issued Notice of Violation #WSWDS10050 to the Respondent for the following violations:
 - a. Established and operated a solid waste volume reduction facility where more than ten cubic yards of solid waste including, but not limited to land clearing debris and stumps was disposed of after July 1, 1971, without a plan, design and method of operation of such solid waste facility having been filed with the Department and approved by the Commissioner by the issuance of a permit to construct a solid waste facility as required by RCSA sections 22a-209-2, 22a-209-4, and 22a-209-10, and Connecticut General Statutes ("CGS") section 22a-208a(b) and 22a-208c.
 - b. Violated CGS section 22a-208c by disposing or transporting more than ten cubic yards of solid waste land clearing debris and stumps generated elsewhere for disposal at 2 Old Nod Road, CT after July 1, 1971, without a plan, design and method of operation of such solid waste disposal facility having been filed with the Department and approved by the Commissioner by the issuance of a permit to construct a solid waste facility as required by RCSA sections 22a-209-2, 22a-209-4, 22a-209-7 and 22a-209-8, and CGS sections 22a-207b, 22a-208a(b) and 22a-208c.
 - c. Violated CGS section 22a-250(d), by dumping solid waste land clearing debris and stumps upon property not owned by American Waste Recycling, LLC., and not otherwise designated by the State for dumping.

4. On August 3, 2010, the Department conducted an inspection of the site in response to further complaints and to ascertain compliance with Notice of Violation #WSWDS10050. Based on the inspection, the Respondent continues to operate an unpermitted solid waste facility at the site.
5. By virtue of the above, Respondent has violated CGS sections 22a-207b, 22a-208a(b), 22a-208c and 22a-250(d) and the RCSA sections 22a-209-2, 22a-209-4, 22a-209-7, 22a-209-8, and 22a-209-10.
6. By agreeing to the issuance of this Consent Order, Respondent makes no admission of fact or law with respect to the matters addressed herein, other than the facts asserted in paragraph A.1. of this Consent Order.

B. With the agreement of Respondent, the Commissioner, acting under sections 22a-6, 22a-208, and 22a-225 of the Connecticut General Statutes, orders Respondent as follows:

1. Upon issuance of this Consent Order, Respondent shall cease and not resume regulated solid waste activities without obtaining a permit issued by the Commissioner, appropriate to the activities engaged in.
2. Consultant. On or before thirty (30) days after issuance of this Consent Order, Respondent shall provide documentation to the Commissioner that one or more consultants has been retained by Respondent, or shall demonstrate to the Commissioner that qualified in-house expertise exists 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 consultants or in-house experts. Respondent shall retain one or more consultants or in-house experts, acceptable to the Commissioner until this Consent Order is fully complied with and within ten (10) days after retaining any or in-house expert other than one originally identified under this paragraph, Respondent shall notify the Commissioner in writing of the identity of such other or in-house expert. Any such consultant shall be qualified to review compliance with regulations promulgated under sections 22a-209-1 through 22a-209-17 of the RCSA. Respondent shall submit to the Commissioner a description of a consultant's or in-house expert'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 consultant or in-house expert unacceptable.
3. Respondent shall remove all accumulated solid wastes in accordance with the following schedule:
 - a. On or before thirty (30) days after the issuance of this Consent Order, Respondent shall notify the Commissioner, in writing, of the identity of the authorized solid waste facility or facilities to which solid wastes from the site have been taken and are to be taken.
 - b. On or before forty-five (45) days after the issuance of this Consent Order, Respondent shall begin removing all solid wastes at the site to an authorized solid waste facility or facilities and shall begin removing processed wood from the property. Respondent shall maintain a log of all salable and unsalable products which denotes the volume and destination of the product.

- c. On or before ninety (90) days after the issuance of this Consent Order, Respondent shall complete the removal of all solid wastes at the site to an authorized solid waste facility or facilities. Respondent may keep on site up to three thousand (3,000) cubic yards of unprocessed wood and two thousand (2,000) cubic yards of processed wood provided Respondent has received written approval for the General Permit for a Single Item Recycling Facility.
 - d. On or before one hundred and twenty (120) days after the issuance of this Consent Order, Respondent shall submit to the Commissioner written proof that such solid waste facility or facilities has received such solid wastes and processed wood and notify the Commissioner, in writing, that the removal of all solid wastes at the site has been completed.
4. 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 have taken to date to comply with this Consent Order.
5. Future Compliance Plan including Recycling.
 - a. On or before sixty (60) days after the issuance of this Consent Order, Respondent shall submit to the Commissioner, for review and written approval, a plan which details the actions and/or operational changes to ensure future compliance with the Solid Waste Management Regulations, RCSA section 22a-209, et. seq., including but not limited to those set forth in paragraphs A.3 of this Consent Order.
 - b. Respondent shall conduct a comprehensive recycling review of American Recycling's office location to evaluate compliance with Connecticut's recycling laws set forth in CGS section 22a-241b(c). On or before ninety (90) days after the date of issuance of this Consent Order, Respondent shall submit for the Commissioner's review and written approval a business recycling profile documenting the management of recyclable materials. An example profile is included as Attachment A to this Consent Order.
6. Status of Notice of Violation n #WSWDS10050. This Consent Order supersedes Notice Violation #WSWDS10050.
7. 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 satisfaction of the Commissioner.
8. Civil penalty. Respondent shall pay a penalty of twenty two thousand two hundred and twenty two dollars (\$22,222.⁰⁰) as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraphs A.3. and A.5. of this Consent Order. Payment shall be made in accordance with provisions of paragraph B.11. The penalty shall be paid in four (4) separate installments due and payable as follows:

- a. The first installment of the penalty shall be in the amount of five thousand five hundred and fifty five dollars and fifty cents (\$5,555.⁵⁰) shall be due and payable on or before ninety (90) days after the date of issuance of this Consent Order.
 - b. The second installment of the penalty shall be in the amount of five thousand five hundred and fifty five dollars and fifty cents (\$5,555.⁵⁰) shall be due and payable on or before one hundred and eighty (180) days after the date of issuance of this Consent Order.
 - c. The third installment of the penalty shall be in the amount of five thousand five hundred and fifty five dollars and fifty cents (\$5,555.⁵⁰) shall be due and payable on or before two hundred and seventy (270) days after the date of issuance of this Consent Order.
 - d. The fourth installment of the penalty shall be in the amount of five thousand five hundred and fifty five dollars and fifty cents (\$5,555.⁵⁰) shall be due and payable on or before three hundred and sixty (360) days after the date of issuance of this Consent Order.
9. Supplemental Environmental Projects. In lieu of making the third and fourth civil penalty payment prescribed in paragraph B.8.c. and B.8.d. above, Respondent may comply with the requirements of paragraph B.9.a or B.9.b below regarding supplemental environmental projects ("SEP").
- a. Payment to the Statewide SEP Account. On or before two hundred and seventy (270) days after the date of issuance of this Consent Order, Respondent shall pay eleven thousand one hundred and eleven dollars (\$11,111.⁰⁰) to the Statewide SEP Account. The payment shall be mailed or personally delivered to the Department of 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", with the notation thereon "Statewide SEP Account" and "Consent Order No. COWSWDS11004." Copies of the check and any transmittal letter shall also be sent to Julie Dutton in the Bureau of Materials Management and Compliance Assurance of the same address.
 - b. Performance of SEP(s)
 - i. On or before ninety (90) 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 SEP's ("proposal"). The proposal shall include: a detailed description of each SEP; itemized costs to be incurred by Respondent in carrying out each SEP, documentation to support such cost estimates, an explanation as to why each SEP is being proposed, a proposed schedule for implementation and completion of each SEP, and a description of the benefit of each SEP to the general public or the environment. Respondent shall be credited up to eleven thousand one hundred and eleven dollars (\$11,111.⁰⁰) to partially fund any SEPs.
 - ii. The Commissioner will either (a) approve the proposal, including in such approval the dollar amount of the penalty offset to be realized by the Respondent attributable to the SEP(s) and any additional conditions deemed

necessary by the Commissioner; or (b) 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 the Respondent. The decision to approve or disapprove an SEP shall be in the sole discretion of the Commissioner.

- iii. If the dollar amount of the penalty offset attributable to the approved SEP(s) is less than eleven thousand one hundred and eleven dollars (\$11,111.⁰⁰), Respondent shall pay the difference in accordance with a revised schedule established by the Commissioner.
- iv. If the Commissioner approves Respondent's proposal and Respondent fails to perform any approved SEP within the timeframes specified in the proposal, a payment to the Statewide SEP Account in an amount equal to the amount credited to Respondent for the SEP under paragraph B.10.b.ii. shall be due immediately upon notification by the Commissioner. In addition, a two thousand five hundred dollar (\$2,500⁰⁰) penalty shall also be paid at this time for non-compliance with the approved proposal. This additional two thousand five hundred dollar (\$2,500⁰⁰) penalty shall apply to each SEP which Respondent fails to perform in accordance with the terms and conditions approved by the Commissioner. Any payment made pursuant to this subparagraph shall be made in accordance with paragraph B.11. of this Consent Order. Respondent shall not be given any credit or reduction in the civil penalty provided for by this paragraph if an SEP included in an approved proposal is not fully complied with.
- v. 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 the SEP(s) performed under this paragraph.
- vi. 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.
- vii. 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.
- viii. On or before thirty (30) days after completion of the SEP, Respondent shall submit for the Commissioner's review and written approval a comprehensive final report that certifies completion of the SEP. Such final report shall include, at a minimum, a narrative history of the project, detailed explanation of its design and implementation, summary of any data collected, complete final accounting of actual project costs including receipts for out-of-pocket costs, and a discussion of environmental benefits resulting from the SEP.
- ix. Should the Commissioner determine that the actual cost to the Respondent in completing an SEP is less than the estimated cost identified in the proposal

approved by the Commissioner in accordance with paragraph B.9.b.ii, 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. 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 "Treasurer, State of Connecticut" and the check shall state on its face "Statewide SEP account." Any payment shall be made in accordance with paragraph B.10. of this Consent Order.

10. Payment of penalties. Payment of penalties under this consent order shall be mailed or personally delivered to the Department of 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, "Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division Civil Penalty, Consent Order No. COWSWDS11004. A copy of the check and any transmittal letter shall also be sent to Ms. Julie Dutton in the Bureau of Materials Management and Compliance Assurance at the same address.
11. 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 purpose to this Consent Order. Nothing in this paragraph shall excuse noncompliance or delay.
12. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
13. 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.
14. 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 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 section 53a-157b of the Connecticut General Statutes and any other applicable law."

15. 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.
16. False statements. Any false statement in any information submitted pursuant to this Consent Order may be punishable as a criminal offense under section 53a-157b of the Connecticut General Statutes and any other applicable law.
17. Notice of transfer; liability of Respondent and others. Until Respondent has fully complied with this Consent Order, Respondent shall notify the Commissioner in writing no later than fifteen days after transferring all or any portion of the operations which are the subject of this Consent Order, the site or the business, or 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.
18. 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 violations of law, including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this Consent Order have not fully characterized the extent and degree of pollution or have not 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 pollution.
19. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondent of other obligations under applicable federal, state and local law.
20. 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.
21. 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.

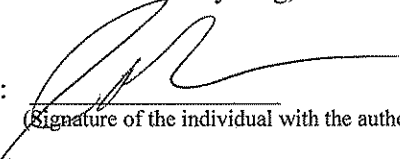
22. No effect on rights of other persons. This Consent Order shall neither create nor affect any rights of persons who or municipalities which are not parties to this Consent Order.
23. Notice to Commissioner of changes. Within fifteen (15) days of the date Respondent becomes aware of a change in any 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.
24. 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.
25. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order shall, unless otherwise specified in writing by the Commissioner, be directed to:

Darlene Sage
Department of Environmental Protection
Bureau of Materials Management and Compliance Assurance
Waste Engineering and Enforcement Division
79 Elm Street
Hartford, Connecticut 06106-5127

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Respondent consents to the issuance of this Consent Order without further notice. 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.

American Waste Recycling, LLC

By: 

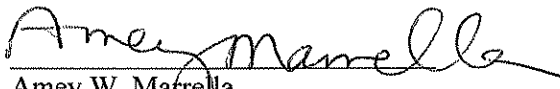
(Signature of the individual with the authority to bind Respondent to the terms of this Consent Order)

John Pryor
Name (typed)

Manager/Member
Title

2/10/11
Date

Issued as a final order of the Commissioner of Environmental Protection


Amey W. Marrella
Commissioner

2/22/11
Date

CONSENT ORDER NO. WSWDS11004