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Affirmative Action/Equal Opportunity Employer

STATE OF CONNECTICUT
V.
CAPITOL WASTE SERVICES, LLC

CONSENT ORDER# WSWDS13019

Date Issued: November 7, 2013

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

1. Respondent is a Connecticut domestic limited liability company, engaged in the business of solid waste collection and hauling, with a place of business located at 5400 Main Street, Putney, Stratford, CT.
2. On January 11, 2012 Department staff, inspected 85 Seaview Avenue, Bridgeport, CT and found that an unpermitted solid waste facility had been established.
3. On February 9, 2012 as the result of the inspection described in paragraph A.2. the Department issued Notice of Violation #WSWDS12016 to the Respondent for the following violations:
 - a) Established and operated a solid waste facility where more than ten cubic yards of solid waste including, but not limited to construction and demolition debris, 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 the Regulations of Connecticut State Agencies ("RCSA") § 22a-209-4 and §22a-209-9, and Connecticut General Statutes ("CGS") § 22a-208a(b) and §22a-208c.
 - b) Violated CGS § 22a-250(d) by dumping solid waste upon property not owned by Capitol Waste Services, LLC, and not otherwise designated by the State or any political subdivision thereof for dumping.
4. On December 17, 2012, Department staff inspected 560 North Washington Avenue, Bridgeport, Connecticut, and found that an unpermitted solid waste facility had been established.
5. On January 11, 2013 as the result of the inspection described in paragraph A.4. the Department issued Notice of Violation #WSWDS13007 to the Respondent for the following violations:
 - a) Established and operated a solid waste facility where more than ten cubic yards of solid waste including, but not limited to construction and demolition debris, 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 § 22a-209-4 and §22a-209-9 and CGS § 22a-208a(b) and §22a-208c.

- b) Violated CGS § 22a-250(d) by dumping solid waste upon property not owned by Capitol Waste Services, LLC, and not otherwise designated by the State or any political subdivision thereof for dumping.
6. Respondent has not submitted any response to the Department as a result of the issued Notices of Violation which are described in paragraphs A.3. and A.5. of this Consent Order.
7. On May 21, 2013, a letter was sent by the Department for noncompliance with Notice of Violation #WSWDS12016 and #WSWDS13007. On May 24, 2013 the Marshal hand delivered the notice to Capitol Waste Services, LLC.
8. By virtue of the above, Respondent has violated CGS § 22a-208a(b) and §22a-208c. and RCSA § 22a-209-4, and §22a-209-9

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

1. Prohibition. Respondent shall cease the acceptance of all solid waste at the site without first 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 qualified 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 consultant 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 consultant or in-house expert. Any such consultant shall be qualified to review compliance with regulations promulgated under § 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 acceptable consultant or in-house expert unacceptable.
3. Future Compliance. On or before thirty (30) days after the issuance of this Consent Order, Respondent shall submit to the Commissioner, for his review and written approval, a plan which details the actions and/or operational changes to ensure future compliance with the Solid Waste Regulations, RCSA § 22a-209, et. seq., including but not limited to those set forth in paragraph A. 3, 5, and 8 of this Consent Order. Within five (5) days after the Commissioner approves such plan, Respondent shall carry out the plan and maintain it in full effect thereafter.
4. Recycling Audit.
On or before thirty (30) days after the date of issuance of this Consent Order Respondent shall conduct a comprehensive recycling review of Capitol Waste's office locations at 5400 Main Street, Putney, Stratford and 2660 East Main Street, Bridgeport, to evaluate compliance with

Connecticut's recycling laws set forth in CGS § 22a-241b(c). 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.

5. Status of Notices of Violation #WSWDS12016 and #WSWDS13007. This Consent Order supersedes Notices of Violation # WSWDS13016 and #WSWDS13007.
6. 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.
7. Civil penalty. On or before thirty (30) days, Respondent shall pay a penalty of ten thousand dollars (\$10,000) 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.
8. Payment of penalties. Payment of the penalties under this Consent Order shall be mailed or personally delivered to Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127, and shall be by certified or bank check payable to "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 in the Bureau of Materials Management and Compliance Assurance at the same address.
9. 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.
10. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
11. 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.

12. 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 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 § 53a-157b of the Connecticut General Statutes and any other applicable law.

"

13. 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.

14. 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.

15. 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.

16. 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.

17. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondent of other obligations under applicable federal, state and local law.

18. 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.

19. 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.
20. 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.
21. 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.
22. 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.

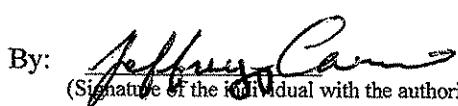
Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order shall, unless otherwise specified in writing by the Commissioner, be directed to:

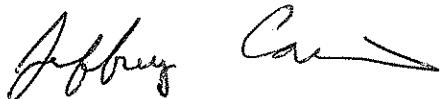
Darlene Sage
Environmental Analyst
Department of Energy and Environmental Protection
Bureau of Materials Management and Compliance Assurance
Waste Engineering and Enforcement Division
79 Elm Street
Hartford, Connecticut 06106-5127

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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.

Capitol Waste Services, LLC.

By: 



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

Name (typed)

JEFFREY CARNIELLO

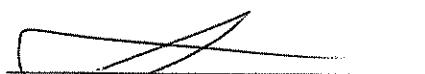
Member

Title

10/21/13

Date

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



Macky McCleary

Deputy Commissioner

Deputy of Energy and Environmental Protection

11/6/13

Date

CONSENT ORDER NO. WSWDS13019

cc: Town of Bridgeport Land Records