



**STATE OF CONNECTICUT**

**V.**

**CALAMARI RECYCLING COMPANY, INC.**

**CONSENT ORDER No. WSWDS16002**

**Date Issued: May 27, 2016**

- A. With the agreement of Calamari Recycling Company, Inc., (“Respondent”), the Commissioner of Energy and Environmental Protection (“the Commissioner”) finds:
1. Calamari Recycling Company, Inc. is a corporation, which is engaged in a solid waste business located at 20 Town Dump Road, Essex, Connecticut, (“the site”) shown in book 174, page 168 in the Essex Tax Assessor’s Office.
  2. On March 18, 2014, Solid Waste Permit to Construct and Operate No. 05001138-PCO (“PCO”) was issued to the Respondent to operate a solid waste volume reduction plant (“Facility”), specifically for construction and demolition debris (“C&D”), cardboard and paper, clean wood, scrap tires, spent lead-acid batteries, yard waste, and scrap metal.
  3. On November 21, 2014, the Department of Energy and Environmental Protection, Waste Engineering and Enforcement Division (“the Department”) inspected the site and found the following violations identified in a report dated December 15, 2014:
    - a. Failed to provide the appropriate signage at the entrance of the facility as required by Connecticut General Statutes (“CGS”) § 22a-636, Regulations of Connecticut State Agencies (“RCSA”) § 22a-209-4(e), 22a-209-10(3) and PCO paragraphs A.3., C.8., and C.9.
    - b. Failed to have a certified operator on-site as required by RCSA § 22a-209-4(e), 22a-209-6, and 22a-209-10(7), and PCO paragraphs A.3. and C.7.
    - c. Failed to store solid waste, specifically construction and demolition debris, tires and wood pallets in the approved areas as required by RCSA § 22a-209-4(e), and PCO paragraphs A.3., C.4.a., and C.4.c.
    - d. Failed to document periodic unannounced inspections of 5% of the monthly truck loads received at the facility as required by CGS § 22a-220c(b), RCSA § 22a-209-4(e), and PCO paragraphs A.3. and C.5.k.
    - e. Failed to receive only approved solid waste, as required by RCSA § 22a-209-4(e), and PCO paragraphs A.3. and C.4. Specifically, the unapproved solid waste observed on site included the following: mattresses, computer circuit boards, computer towers, and a motor boat.
    - f. Failed to determine that loads of source separated recyclable items do not contain greater than 2% by

volume of non-recyclable solid waste as required by RCSA § 22a-209-4(e), and PCO paragraphs A.3. and C.5.i.

- g. Failed to conduct wood processing activity in the approved area as required by RCSA § 22a-209-4(e) and PCO paragraphs A.3., A.4., and A.6.
  - h. Failed to provide an acceptable financial assurance instrument as required by CGS 22a-6(7), RCSA § 22a-209-4(i) and PCO paragraphs A.3. and C.14.b.
  - i. Failed to conduct compliance audit inspections as required by RCSA § 22a-209-4(e) and PCO paragraphs A.3., C.15. and C. 16.
  - j. Failed to perform asbestos and lead monitoring as required by PCO paragraphs A.3. and C.6.
4. On February 13, 2015 the Department issued Notice of Violation No. WSWDS15006 to Respondent requiring correction of the violations cited in paragraph A.3. of this Consent Order.
5. On April 11, 2015, the Department received a submittal from the Respondent that was partially responsive to Notice of Violation No. WSWDS15006. The Respondent represented that they have corrected all violations in Notice of Violation No. WSWDS15006. However, the Respondent did not provide complete documentation. Therefore, the Department did not confirm compliance with Notice of Violation No. WSWDS15006.
6. On August 14, 2015, the Department inspected the site and found the following violations identified in a report dated August 26, 2015:
- a. Failed to keep approved solid waste within the limits for storage volumes as required by RCSA § 22a-209-4(e) and PCO paragraphs C.3. and C.4., including but not necessarily limited to unprocessed and processed construction and demolition debris (C&D), cardboard and paper, and unprocessed and processed clean wood.
  - b. Failed to store solid waste, specifically C&D, tires and wood pallets in the approved areas as required by RCSA § 22a-209-4(e), and PCO paragraphs A.3., C.4.a., and C.4.c. The solid waste and unapproved locations include, but are not necessarily limited to: C&D outside of bays 1, 2, and 4 of the volume reduction building and areas where the building is damaged, as well as tires in the approved wood storage/processing area.
  - c. Failed to receive only approved solid waste, as required by RCSA § 22a-209-4(e), and PCO paragraphs A.3. and C.4. Specifically, unapproved solid waste received at your facility includes, but is not necessarily limited to: mattresses, computer circuit boards and computer towers.
  - d. Failed to provide an acceptable financial assurance instrument as required by Connecticut General Statutes § 22a-6(a)(7), RCSA § 22a-209-4(i) and PCO paragraphs A.3. and C.13. and C.14.b.
  - e. Failed to conduct compliance audit inspections as required by RCSA § 22a-209-4(e) and PCO paragraphs A.3., C.15.a.through C.15.g.
7. On November 21, 2014 and August 14, 2015 the Department inspected the site and observed that the Respondent failed to manage universal waste, specifically used electronics only (computer circuit boards and

computer towers) in compliance with 40 CFR 273.13 and RCSA § 22a-449(c)-113(c)(1), as previously referred to in Items 3.e. and 6.c. above.

8. On October 29, 2015, the Department issued Notice of Violation No. WSWDS15051 to Respondent for repeat violations and new violations listed in paragraph A.6. of this Consent Order. To date, the Department has not received a response to Notice of Violation No. WSWDS15051.
  9. On January 7, 2016, the Respondent's consultant, pursuant to the PCO, reported to the Department by telephone and email that a fire occurred at the facility on January 6, 2016 that interrupted operations and caused significant damage to the facility. Paragraph B.5.e. of the PCO requires a written report of the incident to be submitted to the Department no later than the fifth business day after the emergency incident. To date, the Department has not received a written report summarizing the incident.
  10. By virtue of the above, Respondent has violated Connecticut General Statutes ("CGS") § 22a-6(a)(7), 22a-220c(b), and 22a-636, and 40 CFR 273.13, and RCSA § 22a-449(c)-113(c)(1), and RCSA § 22a-209-4(e), 22a-209-4(i), 22a-209-6(c), 22a-209-10(3), and 22a-209-10(7) and PCO paragraphs A.3., A.4., A.6., C.3., C.4., C.4.a., C.4.c., C.5.i., C.5.k., C.6., C.7., C.8., C.9., C.13., C.14.b., C.15.a., C.15.g., and C.16.
- B. With the agreement of Respondent, the Commissioner, acting under § 22a-6, 22a-131, 22a-208, and 22a-225 of the Connecticut General Statutes, orders Respondent as follows:
1. Respondent shall bring all violations identified in paragraphs A.3., A.6., A.7., A.8., and A.9. above into compliance and maintain its compliance with all applicable provisions of CGS §§ 22a-208a and 22a-241b, and RCSA §§ 22a-209-1 and 22a-209-17, as well as the PCO, in accordance with the following schedule:
    - a. On or before thirty (30) days after the issuance of this Consent Order, Respondent shall provide documentation to the Commissioner that one or more 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 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 originally identified under this paragraph, Respondent shall notify the Commissioner in writing of the identity of such other consultant. Any such consultant shall be qualified to evaluate and determine compliance with regulations promulgated as § 22a-209-1 through § 22a-209-17 of the RCSA. 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.
    - b. On or before thirty (30) days after the issuance of this Consent Order submit an inventory of the current volumes of unprocessed and processed solid waste and recyclables on-site. The inventory shall include all categories of solid waste as approved in paragraph 4. Table 1 of the PCO.
    - c. On or before forty five (45) days after the issuance of this Consent Order submit to the Commissioner, for his review and written approval a report detailing all corrective actions taken with supporting documentation demonstrating that the violations identified in paragraph A.3., A.6. A.7., A.8. and A. 9. have been corrected.

2. Construction of Building. In the event that the Respondent elects to reconstruct the facility as previously authorized, the Respondent shall notify the Department of such reconstruction activities a minimum of seven (7) days prior to their initiation and subsequent to the issuance of a building permit by the Town of Essex. The Respondent may reconstruct the facility, including installing its equipment, as previously authorized in the PCO or previous Permit(s) to Construct (Permits) or, if modifications are to be incorporated, the Respondent shall submit an application to modify the PCO pursuant to applicable law. The Respondent shall within thirty (30) days from the completion of the construction, submit a written notification for the Commissioner's review and written approval. Such notification shall include at a minimum:
  - a. P.E. certified statement that the construction of the facility has been completed as previously authorized;
  - b. P.E. certified as-built drawings; and
  - c. A request for written authorization from the Commissioner to operate in accordance with all conditions of the PCO including the facility features and equipment authorized by previous Permits.
3. Future Compliance. On or before sixty (60) 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 Management Regulations, RCSA § 22a-209, et. seq., including but not limited to those set forth in paragraph A.3., A.6., A.7., A.8., and A.9. 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. Business Recycling Profile. On or before ninety (90) days after the date of issuance of this Consent Order, Respondent shall conduct a comprehensive recycling review of Calamari's office location 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. Progress reports. On or before the last day of March, June, September, and December of each year following 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.
6. Status of Notice of Violation #WSWDS15006 and Notice of Violation #WSWDS15051. This Consent Order supersedes Notice of Violation # WSWDS15006 and Notice of Violation #WSWDS15051.
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 thousand dollars (\$20,000) as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraph A.3., A.6., A.7., A.8., and A.9. of this Consent Order. The penalty shall be paid in **four (4) equal** installments in accordance with the provisions of paragraph B.9., according to the following schedule:
  - a. The first installment of the penalty shall be in the amount of five thousand dollars (**\$5,000**) due and payable on or **before thirty (30) 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 dollars (**\$5,000**) due and payable on or before **one hundred and twenty (120) 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 dollars (**\$5,000**) due and payable on or before **two hundred and ten (210) days** after the date of issuance of this Consent Order.
  - d. The fourth installment of the penalty in the amount of five thousand dollars (**\$5,000**) shall be due and payable on or before **three hundred (300) days** after the date of issuance of this Consent Order.
9. 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.
10. 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.
11. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
12. 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.

13. 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 Section 53a-157b of the Connecticut General Statutes and any other applicable law."*

14. 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.
15. 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.
16. 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 (15) 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.
17. 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.
18. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondent of other obligations under applicable federal, state and local law.
19. 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.

20. 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.
21. 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.
22. 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.
23. 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.
24. 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 II  
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

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.

**Calamari Recycling Company, Inc.**

BY: Joel V. Nucci  
Signature  
JOEL V. NUCCI PRESIDENT  
Type/ Print Name and Title  
5/16/2016  
Date

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

Michael Sullivan  
Michael Sullivan  
Deputy Commissioner

5/27/16  
Date

CONSENT ORDER No. COWSWDS16002

Sent Via Electronic Certified Mail