



STATE OF CONNECTICUT

V.

CWPM, LLC

CONSENT ORDER # COWSWDS 16003

Date Issued: June 14, 2016

- A. With the agreement of CWPM, LLC (“Respondent”), the Commissioner of Energy and Environmental Protection (“the Commissioner”) finds:
1. Respondent is the operator of a permitted solid waste volume reduction facility, located at 25 Norton Place, in Plainville, Connecticut and more fully described in Assessor’s Map 24-G-01; Map 24-G-01A; Map 24-G-01B. The property will hereinafter referred to as “the facility”.
 2. The Owner of Record is Generation Four Realty LLC, 25 Norton Place, Plainville, CT 06062.
 3. On September 5, 2011, solid waste facility Permit to Operate No. 1100900-PO (“the Permit”) was issued by the Department of Energy and Environmental Protection (“the Department”).
 4. Based on the findings of a compliance evaluation inspection of the facility performed on November 20, 2015:
 - a. Respondent failed to post a sign at the facility entrance as required by Section 22a-209-10(3) of the Regulations of Connecticut State Agencies (“RCSA”) and paragraph C.7 of the Permit.
 - b. Respondent failed to post signs within the facility limiting truck idling time for no more than three consecutive minutes pursuant to Section 22a-174-18(b)(3) of RCSA and paragraph C.8. of the Permit.
 - c. Respondent failed to conduct periodic unannounced inspections of loads delivered to the facility pursuant to Connecticut General Statutes (“CGS”) Section 22a-220c(b) and paragraphs C.4.k., C.4.l. and C.4.m. of the Permit.
 - d. Respondent failed to ensure that each outside collection container is covered pursuant to Section 22a-209-4(e) of RCSA and Paragraph C.3. of the Permit.
 - e. Respondent failed to post adequate financial assurance as required by CGS Section 22a-6(a)(7), RCSA Section 22a-209-4(i) and Paragraph C.11. of the Permit.

- f. Respondent failed to perform asbestos and lead monitoring for the facility in accordance with the time frame and frequency required by the terms of the permit and in violation of Paragraphs A.3 and C.5. of the Permit.
 - g. Respondent failed to seek approval from the Commissioner of a compliance auditor to perform quarterly compliance audits pursuant to Paragraph C.12.b. of the Permit.
 5. By virtue of the above, Respondent has violated Sections 22a-209-4(e), 22a-209-4(i), 22a-209-10(3), and 22a-174-18(b)(3) of the RCSA, Sections 22a-6(a)(7) and 22a-220c(b) of the CGS, and the Permit to Operate No. 1100900-PO.
 6. On February 10, 2016 the Department issued Notice of Violation (NOV) No. WSWDS16005 to Respondent to correct the violations listed in Paragraph A.4. of this consent order.
 7. In correspondence received December 1, 2015, February 16th, March 10th, and March 16th, 2016, Respondent represented the violations corresponding to those listed in Paragraph A.4.a. through A.4.g. of the consent order had been resolved.
- B. With the agreement of Respondent, the Commissioner, acting under CGS Sections 22a-6, 22a-174, 22a-208, 22a-225, and 22a-226, orders Respondent as follows:
1. Compliance. Respondent shall maintain its compliance with applicable provisions of Connecticut solid waste management regulations. In particular:
 - a. On or before **sixty (60) days** after issuance of this consent order, Respondent shall submit for the Commissioners review and written approval a plan which details the actions and/or operational changes it has undertaken or will undertake to ensure future compliance with Connecticut solid waste management regulations including, but not limited to those set forth in Paragraph A.4. of this consent order. The plan shall address, among other things, inspection procedures, recordkeeping and reporting, training, and emergency planning procedures. Within five (5) days after the Commissioner approves such plan, Respondent shall carry out the plan and maintain it in full effect thereafter.
 - b. Respondent shall conduct a comprehensive recycling review of the facility to evaluate compliance with Connecticut's recycling laws set forth in CGS Section 22a-241b(d). On or before **sixty (60) days** after the issuance of this consent order, Respondent shall submit for the Commissioners review and written approval a business recycling profile documenting the management of recyclable materials. Refer to the enclosed example profile.
 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. Status of Notice of Violation No. WSWDS16005. This consent order supersedes Notice of Violation No. WSWDS16005.
 4. Civil penalty. Respondent shall pay a penalty of **thirteen thousand dollars (\$13,000)** as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in Paragraph A.4. of this consent order. The penalty payment shall be made into two (2) installments. The penalty payment must be made in accordance with the following schedule:

- a. The first installment of **six thousand five hundred dollars (\$6,500)** shall be due and payable on or before **thirty (30) days** after the date of issuance of this consent order.
- b. The second installment of **six thousand five hundred dollars (\$6,500)** shall be due and payable on or before **ninety (90) days** after the date of issuance of this consent order.

All payments shall be made in accordance with the protocol described in paragraph B.6. below.

5. Supplemental Environmental Project. In lieu of making the second civil penalty payment installment prescribed in Paragraph B.4.b above, Respondent may comply with the requirements of either paragraphs B.5.a or B.5.b. below regarding supplemental environmental projects ("SEP").

- a. Payment to the Statewide SEP Account.

- (1) On or before **ninety (90) days** after the date of issuance of this consent order, Respondent shall pay **six thousand five hundred dollars (\$6,500)** to the Statewide SEP Account.

- (2) The payments 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.

- b. Performance of SEP(s)

- (1) On or before **forty-five (45) 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 SEPs ("proposal"), according to the Department's February 15, 1996 "Policy on Supplemental Environmental Projects". The proposal shall include:

- i. a detailed description of each SEP,
- ii. itemized costs to be incurred by Respondent in carrying out each SEP,
- iii. documentation to support such cost estimates,
- iv. an explanation as to why each SEP is being proposed,
- v. a proposed schedule (of not more than 180 days) for implementation and completion of each SEP, and
- vi. a description of the benefit of each SEP to the general public or the environment.

Respondent shall be credited up to **six thousand five hundred dollars (\$6,500)** to partially fund any SEP(s).

(2) The Commissioner will either:

- i. approve the proposal, including in such approval the dollar amount of the penalty offset to be realized by Respondent attributable to the SEP(s) and any additional conditions deemed necessary by the Commissioner; or
- ii. 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 Respondent.

The decision to approve or disapprove an SEP shall be in the sole discretion of the Commissioner

- (3) If the dollar amount of the penalty offset attributable to the approved SEP(s) is less than **six thousand five hundred dollars (\$6,500)**, Respondent shall pay the difference in accordance with a revised schedule established by the Commissioner.
- (4) Respondent shall not be given credit, or reduction in the civil penalty provided for by this paragraph if SEP included in an approved proposal is not fully complied with. If Respondent fails to fully perform any SEP in accordance with the proposal approved pursuant to Paragraph B.5.b.(2)i., Respondent shall immediately notify the Commissioner in writing of such noncompliance and shall, upon written request by the Commissioner, remit a payment equal to the total estimated cost, as determined by the Commissioner, of all such SEP(s), plus either two thousand five hundred dollars (\$2,500) or 10% of such total estimated cost, whichever is greater. Respondent shall make such payment in accordance with the remittance procedures for unexpended SEP funds in subparagraph B.5.b.(10) of this consent order.
- (5) 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 SEP(s) performed under this paragraph.
- (6) If and when Respondent disseminates any publicity, including but not limited to any press releases regarding funding an SEP, Respondent shall include a statement that such funding is in partial settlement of an enforcement action brought by the Commissioner.
- (7) 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.
- (8) On or before thirty days after completion of each SEP, Respondent shall submit for the Commissioner's review and written approval a comprehensive final report that certifies completion of each SEP. Such final report shall include, at a minimum:
 - i. a narrative history of the project
 - ii. detailed explanation of its design and implementation,
 - iii. summary of any data collected,

- iv. complete final accounting of actual project costs including receipts for out-of-pocket costs, and
 - v. a discussion of environmental benefits resulting from each SEP.
- (9) Should the Commissioner determine that the actual cost to Respondent in completing an SEP is less than the estimated cost identified in the proposal approved by the Commissioner in accordance with paragraph B.5.b.(2)i., 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.
- (10) 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 "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. Any payment shall be made in accordance with paragraph B.5.a.(2).
6. Payment of penalties. Payment of penalties under paragraph B.4. 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.
7. 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 U.S. Environmental Protection Agency or 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 40 CFR 136 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.
8. 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 purposes of this consent order. Nothing in this paragraph shall excuse noncompliance or delay.

9. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
10. 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.
11. 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 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."
12. 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.
13. 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.
14. 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.
15. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties, 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 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 violation.

16. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
17. 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.
18. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the facility without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.
19. 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.
20. 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.
21. 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.
22. 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:

Denver Dixon, Sanitary Engineer 2
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

STATE OF CONNECTICUT

V.

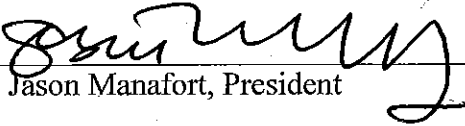
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Respondent consents to the issuance of this consent order without further notice. The undersigned certifies that he/she is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order.

CWPM, LLC

BY:



Jason Manafort, President

6/2/16

Date

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



Michael Sullivan
Deputy Commissioner

6/14/16

Date

CONSENT ORDER # COWSWDS 16003

Town of Plainville Land Records