

STATE OF CONNECTICUT

V.

WINTERS BROS. TRANSFER STATIONS OF CT, LLC

CONSENT ORDER # COWSWDS 17006

Date Issued: September 11, 2017

- A. With the agreement of Winters Bros. Transfer Stations of CT, LLC ("Respondent"), the Commissioner of Energy and Environmental Protection ("the Commissioner") finds:
1. Winters Bros. Realty Holdings II, LLC, is the owner of property located at 90 Oliver Terrace in Shelton, Connecticut and more fully described as Assessor's Map 63 and Lot 13 ("Site").
 2. On December 8, 2015, Application No. 201509479 ("Application"), submitted and prepared by Anchor Engineering Services, Inc. for the Respondent for the Renewal of Permit to Construct and Operate No. 12601022-PCO was received and processed by the Department of Energy and Environmental Protection ("Department").
 3. On November 22, 2016, the Department reviewed the report of compliance audit dated October 4, 2016 submitted and prepared by Anchor Engineering Services, Inc. ("Anchor") as required by Permit to Construct and Operate No. 12601022-PCO.
 4. On November 28, 2016, based on the Department's review referenced in paragraph A.3. above, the Department issued Notice of Violation No. WSWDS16086 ("NOV") to the Respondent for:
 - a. Altering the design and method of operation of the permitted solid waste facility, specifically, new equipment was installed and a new process(es) was operated after July 1, 1971, without a plan, design and method of operation of the altered facility having been filed with the Department and approved by the Commissioner by the issuance of a modified permit as required by Section 22a-208a(d)(1) of the Connecticut General Statutes ("CGS"); Section 22a-209-4(e) of the Regulations of Connecticut State Agencies ("RCSA"); and paragraph nos. A. 2, 3, and 6 of the Permit to Construct and Operate No. 12601022-PCO issued on April 15, 2011.
 5. On December 23, 2016, the Respondent submitted a signed Compliance Statement to the Department for the violation alleged in the NOV, including a letter dated December 13, 2016 requesting approval for installation and operation of the new equipment and process(es) noted in Paragraph A. 4. above.
 6. On January 24, 2017, the Department concluded review of the Application to reissue the solid waste facility permit (without any alteration) and issued the Respondent, Permit to Operate No. 12601238-PCO for the operation of a permitted solid waste volume reduction plant at the Site.

7. On June 14, 2017, Application No. 201705099, submitted and prepared by Anchor for the Respondent for the minor amendment of Permit to Construct and Operate No. 12601238-PCO was received by the Department.
 8. By virtue of the above, Respondent has violated CGS Sections 22a-208a(d)(1) and RCSA Section 22a-209-4(e) for the alteration of the design and method of operation of the processing of recyclables on the Site without the required permits authorizing such activity.
 9. 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 paragraphs A.1. through A.8. of this consent order.
- B. With the agreement of Respondent, the Commissioner, acting under CGS Sections 22a-6, 22a-208, 22a-225, and 22a-226, orders Respondent as follows:
1. Compliance. Respondent shall maintain its compliance with all applicable provisions of Connecticut's solid waste management regulations and the permit referenced in paragraph A.6 above. In particular:
 - a. With respect to the new equipment and processes described in paragraph A. 4. of this consent order, which are further the subject of Application No. 201705099 described in paragraph A. 7., of this consent order,
 - 1) Respondent may utilize such equipment and processes until **ninety (90) days** from the date of publication of the Commissioner's Notice of Tentative Determination on Application No. 201705099, described in paragraph A. 7. of this consent order seeking authorization for the new equipment and processes or a final decision on Application No. 201705099, whichever is earlier. In the event that a hearing is requested, Respondent may request under paragraph B. 19. of this consent order, an extension of time to continue to operate such equipment and processes.
 - 2) On or before the earlier of (i) **ninety-seven (97) days** from the date of publication of the Commissioner's Notice of Tentative Determination on Application No. 201705099 described in paragraph A. 7. of this consent order or, in the event an extension of time is allowed pursuant to paragraph B.1.a.1, then in such event seven (7) days after such extension expires, or (ii) a final decision on Application No. 201705099, Respondent shall retain a third party entity licensed in Connecticut as an electrician to verify in writing to the Commissioner that the unpermitted equipment listed in a letter prepared by Anchor for the Respondent dated December 13, 2016, specifically, one GE-2 Green Eye Optical Sorter Model GE-84-5-SRT, one GB 1 PET Gravity Feed Bin, one BLW-1 PET Blower, one C-32 Green Eye Positive Discharge Conveyor, one C-33 HDPE Post Sort Conveyor, One MZ-3 Green Eye Post-Inspection Mezzanine, one C-34 GE Negatives Conveyor 1, one C-35 GE Negatives Conveyor 2, one MZ-4 Secondary Fiber Sort Post-Inspection Mezzanine, one C-36 Glass Discharge Conveyor, and one FAK-1 Fractional Air Knife/Cyclone Glass Clean-Up System have ceased in operation and rendered de-energized (locked out) until such time as a solid waste permit modification or authorization of the equipment or process(es) is issued.
 - 3) On or before **fourteen (14) days** after retaining said Connecticut licensed electrician required by paragraph B.1.a.2) of this consent order, Respondent shall submit, for the Commissioner's review and written approval, verification the equipment was de-energized as required by paragraph B.1.a.2) of this consent order.

- b. On or before **sixty (60) days** after issuance of this consent order, Respondent shall submit for the Commissioner's review and written approval a comprehensive plan which details the actions and/or operational changes it has undertaken or will undertake to ensure future compliance with the 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.
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. WSWDS16086. This consent order supersedes Notice of Violation No. WSWDS16086.
4. Civil penalty. On or before **fourteen (14) days** after issuance of this consent order, Respondent shall pay a penalty of **seven thousand eight hundred dollars (\$7,800)** 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.
5. Payment of penalties. Payment of penalties under 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, 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 order number identified on the first page of the 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, Waste Engineering and Enforcement Division, at the same address.
6. 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.
7. Definitions. As used in this consent order, "Commissioner" means the Commissioner of Energy and Environmental Protection or a representative of the Commissioner.
8. 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.

9. 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 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 section 53a-157b of the CGS and any other applicable law."

10. 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.
11. 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 CGS and any other applicable law.
12. 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 fifteen (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.
13. 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 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.
14. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
15. 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.
16. 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.
17. 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.

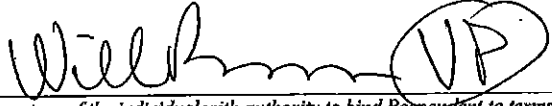
18. Notice to Commissioner of changes. Within fifteen (15) days of the date Respondent becomes aware of a change in any information submitted to the Commissioner under this consent order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.
19. 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.
20. 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:

Laurene Buckowski, Sanitary Engineer 2
Department of Energy and Environmental Protection
Bureau of Materials Management and Compliance Assurance
Waste Engineering and Enforcement Division
79 Elm Street, 4th Floor
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/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.

WINTERS BROS. TRANSFER STATIONS OF CT, LLC

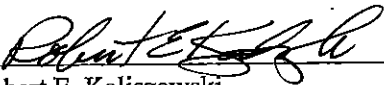
BY: 
(Signature of the individual with authority to bind Respondent to terms of consent order)

William Brennan
Name (typed)

Vice President
Title

9-1-2017
Date

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


Robert E. Kaliszewski
Deputy Commissioner

9/11/17
Date

CONSENT ORDER # COWSWDS 17006

City of Shelton Land Records