

STATE OF CONNECTICUT

V.

GRILLO SERVICES, LLC AND

GRILLO ORGANIC, INC.

CONSENT ORDER NO. COWSWDS 19008

Date Issued: 7/30/2019

- A. With the agreement of Grillo Services, LLC ("Respondent Grillo Services") and Grillo Organic, Inc. ("Respondent Grillo Organic") (collectively referred to as the "Respondents"), the Commissioner of Energy and Environmental Protection (the "Commissioner") finds:
1. Respondents are the operators of a leaf composting facility located at 1183 Oronoque Road in Milford, Connecticut and more fully described as Assessor's Map 50, Block 935 and Lot 1. The property will hereinafter be referred to as the ("Site").
 2. On October 11, 1994, Respondent Grillo Organic received an Approval of Registration for a Leaf Composting Facility Registration No. LCF-084-001 from the Department of Energy and Environmental Protection¹ (the "Department"). This registration is still in effect.
 3. On April 3, 2000, Green Cycle Grillo Services, LLC ("Green Cycle") received an Approval of Registration for the General Permit for the Addition of Grass Clippings at a Registered Leaf Composting Facility Registration No. LGF-084-001 from the Department. The Department reissued this general permit on June 30, 2017 and Respondent Grillo Services submitted Application no. 201705842 on August 1, 2017. This application is pending.
 4. On November 13, 2009, Green Cycle submitted Application no. 200903801 for the General Permit to Construct and Operate Certain Recycling Facilities for a Single Item Wood Recycling Facility ("General Permit to Construct and Operate Certain Recycling Facilities").
 5. On February 16, 2010, Respondent Grillo Organic, re-registered with the Department per Section 22a-208i(a)-1(c)(4)(A) of the Regulations of Connecticut State Agencies ("RCSA") for an increase in the annual volume of leaves to be composted and to notify the name change of the facility's operator and the property owner under Application no. 201000951.

¹ Public Act 11-80, effective July 1, 2011, established the Department of Energy and Environmental Protection as the successor agency to the Department of Environmental Protection

6. On November 12, 2010, a name change from Green Cycle Grillo Services, LLC to Grillo Services, LLC was filed with the Office of the Connecticut Secretary of the State.
7. On June 7, 2011, the Department issued Notice of Violation no. WSWDS11040 ("NOVWSWDS11040") to Respondent Grillo Services for failure to ensure that dust resulting from the operation of the facility be controlled at all times to assure compliance with applicable requirements of the RCSA and any other applicable law in accordance with Section 5.a.(6) of the General Permit to Construct and Operate Certain Recycling Facilities, reissued August 16, 2010. On July 18, 2011, NOVWSWDS11040 was closed.
8. On July 19, 2011, the Department issued Green Cycle an Approval of Registration under the General Permit to Construct and Operate Certain Recycling Facilities for a Single Item Wood Recycling Facility Registration No. 084-295 ("General Permit"). This General Permit expired on August 15, 2015 but authorization is continued in effect until the Department makes a decision on registrations submitted under the Commercial General Permit, which replaced the Recycling General Permit.
9. On December 10, 2013, the Department issued Green Cycle Notice of Non-Compliance no. WSWDS13005 ("NONWSWDS13005") for the alleged acceptance and solicitation of unpermitted solid waste. Specifically, the receipt and processing of catch basin clean-out material. NONWSWDS13005 also cited Green Cycle for failure to re-register under the General Permit for the Addition of Grass Clippings at a Registered Leaf Composting Facility. On March 18, 2014, Respondent Grillo Services submitted Application no. 201402379 for the General Permit for the Addition of Grass Clippings at a Registered Leaf Composting Facility in order to comply with NONWSWDS13005. However, the Department determined that a re-registration was not required. Therefore, the Application no. 201402379 and NONWSWDS13005 were administratively closed on April 21, 2014.
10. On August 1, 2014, staff from the Department inspected the Site in response to Complaint no. 14-114 filed by the Milford Health Department on July 21, 2014 for alleged odor issues on and off site associated with operations at the Site.
11. On October 15, 2014, based on the Department's inspection referenced in paragraph A.10. above, the Department issued Notice of Violation No. WSWDS14058 ("NOVWSWDS14058") to the Respondent Grillo Services for:
 - a. Violating General Permit Sections 5(b)(2)(A) and 5(c)(1)(G) by storing more than three thousand (3,000) cubic yards of unprocessed untreated wood at any one time.
 - b. Violating General Permit Section 5(b)(2)(C) for failure to maintain a minimum distance of twenty-five (25) feet around all brush and woodpiles to allow access by fire and emergency vehicles.
 - c. Violating General Permit Section 5(b)(2)(D) for failure to inspect all brush and untreated wood delivered to the facility upon acceptance to ensure that no treated wood is accepted.
 - d. Violating General Permit Section 5(b)(2)(E) for failure to process and transfer unprocessed and processed wood on a first-in/first-out basis.
 - e. Violating General Permit Section 5(b)(2)(F) for failure to clearly mark the boundaries of the unprocessed and processed wood storage areas on the Site.

12. On November 12, 2014, the Respondent Grillo Services submitted a signed Compliance Statement dated November 5, 2014, for the violations alleged in NOVWSWDS14058. Based on information provided, Respondent Grillo Services reports compliance with paragraphs A.11. b., c., and e. of this consent order.
13. On November 17, 2014, the Department required Respondent Grillo Services to remove all wood waste by December 2014. On December 10, 2014, Respondent Grillo Services met with the Department and submitted a plan for compliance with NOVWSWDS14058. On December 16, 2014, the Department granted an extension until June 1, 2015 to remove wood waste in order to come into compliance with NOVWSWDS14058 and the General Permit. On June 16, 2015, the Department requested a status update concerning compliance with NOVWSWDS14058. On June 29, 2015, Respondent Grillo Services stated via email that they were in compliance with NOVWSWDS14058 and photographs of the Site were submitted via email on July 1, 2015. On September 7, 2016, Respondent Grillo Services submitted via email a copy of a Transmittal Sheet prepared by Tighe & Bond dated October 24, 2011 including two copies of "Request to Change Company/Individual Information" forms for Greencycle Grillo to Grillo Services, LLC (operator) and Blackite Corporation to Rasun Properties, Alpha (property owner).
14. On July 14, 2015, staff from the Department inspected the Site to determine if Respondent Grillo Services was in compliance with NOVWSWDS14058 and the General Permit.
15. On September 10, 2015, based on the Department's inspection referenced in paragraph A.14. above, the Department issued Notice of Violation no. WSWDS15037 ("NOVWSWDS15037") to the Respondent Grillo Services for:
 - a. Violating General Permit Sections 5(b)(2)(A) and 5(c)(1)(G) by storing more than three thousand (3,000) cubic yards of unprocessed untreated wood at any one time.
 - b. Violating General Permit Sections 5(b)(2)(B) and 5(c)(1)(H) by storing more than two thousand (2,000) cubic yards of processed brush and processed untreated wood at any one time.
 - c. Violating General Permit Section 5(b)(2)(E) for failure to process and transfer unprocessed and processed wood on a first-in/first-out basis.
 - d. Violating General Permit Section 5(a)(13) for failure to comply with the Facility's Operation and Management Plan prepared in accordance with Section 4(c)(2)(J)(ii) of the General Permit.
 - e. Violated Sections 22a-208a(b) and 22a-208c of the Connecticut General Statutes ("CGS") and Section 22a-209-4 of the RCSA. Specifically, the receipt, processing and disposal of animal bedding and manure without a permit.
16. On October 1, 2015, the Respondent Grillo Services submitted via email a signed Compliance Statement dated October 1, 2015, for the violations alleged in NOVWSWDS15037. Based on information provided, Respondent Grillo Services reported that compliance with NOVWSWDS15037 would be complied with by November 1, 2015. On November 5, 2015, the Department requested a status update concerning compliance with NOVWSWDS15037. On November 9, 2015, the Respondent Grillo Services submitted via email that the Site is in compliance with NOVWSWDS15037.

17. On December 16, 2015, staff from the Department inspected the Site in response to Complaint no. 15-183 filed by the Milford Health Department on December 11, 2015, for alleged odor issues on and off site associated with operations at the Site. No off site odors were observed during the inspection. However, violation under paragraph 15.b. was observed to be continuing in non-compliance.
18. On February 24, 2016, Complaint no. 16-020 was filed based on a referral from the Bureau of Air Management to the Bureau of Materials Management and Compliance Assurance for alleged odor issues off site associated with operations at the Site.
19. On March 7, 2016, the Department inspected the Site to determine if Respondent Grillo Services was in compliance with NOVWSWDS14058 and NOVWSWDS15037.
20. On May 26, 2016, based on the Department's inspection referenced in paragraph A.19. above, the Department issued Notice of Violation No. WSWDS16017 ("NOVWSWDS16017") to the Respondents for:
 - a. Violating the Section 22a-208i(a)-1(e) of the RCSA (Composting of Leaves); Leaf Composting Facility Registration No. LCF-084-001; and General Permit. Specifically for storing greater than 50,000 cubic yards of block composted leaves in the wood processing area without authorization.
 - b. Violating General Permit by storing unprocessed and processed wood waste in areas that are not depicted on the approved site plan.
 - c. Violating Section 22a-208i(a)-1(e) of the RCSA and Leaf Composting Facility Registration No. LCF-084-001 by mixing wood waste into leaf windrows.
 - d. Violating Section 22a-208i(a)-1(e)(11) of the RCSA and Leaf Composting Facility Registration No. LCF-084-001 for failure to measure and record internal temperature of the windrows at least once every fourteen (14) days at fifty (50) foot intervals along the windrows.
 - e. Failure to conduct a hazardous waste determination as required by Section 22a-449(c)-102(a)(1) of the RCSA, incorporating Title 40 of the Code of Federal Regulations ("40 CFR") Section 262.11. Specifically, a hazardous waste determination is needed for: two piles of dirt, approximately 300 to 350 cubic yards with an unidentified "chemical" odor, which the source was stated to be from the Monster Truck Jam event which had taken place at the Webster Bank Arena in Bridgeport from March 4-6, 2016.
21. On June 21, 2016, the Department granted the Respondents request for a thirty day extension until July 21, 2016, to address violations under NOVWSWDS16017. On July 20, 2016, Respondents submitted via email a signed Compliance Statement dated July 19, 2016, and a written response dated July 20, 2016 including photographs of the Site. Based on information provided, Respondents reports compliance with paragraphs A.20. d., and e. of this consent order.
22. On April 14, 2016, Respondents submitted Application no. 201604923 for the General Permit to Construct and Operate a Commercial Facility for the Management of Recyclable Materials and Certain Solid Wastes – Clean Wood ("Application") and Application no. 201604926 for Leaf Composting. Both applications are pending.

23. On October 5, 2016, Respondent Grillo Organic withdrew Application no. 201000951 for the re-registration for leaf composting.
24. On October 17, 2018, staff from the Department inspected the Site in response to Complaint no. 18-159 filed by the Milford Health Department on September 26, 2018, for the alleged operation of an unpermitted solid waste transfer station at the Site.
25. On January 3, 2019, based on the Department's inspection referenced in paragraph A.24. above, the Department issued Notice of Violation no. WSWDS19001 ("NOVWSWDS19001") to the Respondents for:
 - a. Building, establishing and/or operating a solid waste facility where more than ten cubic yards of solid waste is managed 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 and operate a solid waste facility as required by Sections 22a-208a(b) and 22a-208c of the CGS and Sections 22a-209-2, 22a-209-4, 22a-209-7 and 22a-209-8 of the RCSA. Specifically, for storing, processing and/or disposing of solid waste, including, liquid/sludge/organic waste, processed clean wood, unprocessed clean wood and stumps, asphalt millings, and contaminated dirt, without having received a permit to do so.
 - b. Building, establishing and/or operating a solid waste transfer station where more than ten cubic yards of solid waste generated elsewhere, was collected and transferred to another location 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 and operate a solid waste facility as required by Sections 22a-208a(b) and 22a-208c of the CGS and Sections 22a-209-4 and 22a-209-9 of the RCSA. Specifically, based on the photos from the Complaint no. 18-159, it appeared that liquid/sludge/organic waste and contaminated dirt, generated elsewhere, was being transferred at the Site.
 - c. Violating 22a-430 of the CGS by creating and maintaining a discharge to the waters of the State without obtaining a permit.
 - d. Failure to conduct a hazardous waste determination as required by Section 22a-449(c)-102(a)(1) of the RCSA, incorporating 40 CFR Section 262.11. Specifically, a hazardous waste determination is needed for: one pile of contaminated dirt, which the source was stated to be from the Monster Truck Jam event which had taken place at the Webster Bank Arena in Bridgeport.
26. On January 18, 2019, the Department granted the Respondents request for a two week extension until February 4, 2019, to address violations under NOVWSWDS19001. On January 30, 2019, Respondents submitted via email a signed Compliance Statement dated January 25, 2019, and a written response dated January 21, 2019. NOVWSWDS19001 remains open.
27. By virtue of the above, Respondents have violated Sections 22a-208a(b), 22a-208c, 22a-427, 22a-430 and 22a-449 of the CGS and Sections 22a-208i(a)-1(e), 22a-209-2, 22a-209-4, 22a-209-7, 22a-209-8, 22a-209-9 and 22a-449(c)-102(a)(1) of the RCSA for the processing and disposal of solid waste on the Site without the required permits authorizing such activity.

B. With the agreement of Respondents, the Commissioner, acting under Sections 22a-6, 22a-208, 22a-225, 22a-424, 22a-430, 22a-432 and 22a-449 of the CGS, orders Respondents as follows:

1. Prohibition. Upon issuance of this consent order, Respondents shall cease the acceptance of any additional solid waste at the Site for processing under the terms and conditions of the General Permit, until the report, required in paragraph B.3.c., is submitted.
2. Qualified Professional. Respondents has identified Tighe & Bond as the qualified consultant, who is acceptable to the Commissioner, to prepare the documents and implement or oversee the actions required by this Consent Order. Respondents shall retain Tighe & Bond or a qualified environmental consultant acceptable to the Commissioner until this Consent Order is fully complied with. Within ten (10) days after retaining any qualified consultant(s) other than one originally identified and approved under this paragraph, the Respondents shall notify the Commissioner in writing of the identity of and receive written approval of such other qualified consultant(s) from the Commissioner. In order to seek approval of a qualified consultant, Respondents shall submit to the Commissioner a description of a qualified consultant(s)' education, experience and training which is relevant to the work required by this Consent Order. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.
3. Remove Solid Waste. Respondents shall remove all solid waste cited in paragraph A.25. above from the Site as follows:
 - a. Plan for Removal. On or before **thirty (30) days** after issuance of this consent order, Respondents' consultant shall submit a plan for the removal and disposal of all solid waste (hereinafter "waste"), as defined in Section 22a-207 of the CGS, from the Site, for the Commissioner's written approval. This plan shall include, at a minimum: an inventory of the type, quantity and location of all waste on the Site; a description of the procedure to be used for removal of waste from the Site; and identification of the permitted disposal facilities to which the waste will be delivered.
 - b. Implement Removal Plan. On or before **thirty (30) days** after the plan required in paragraph B.3.a is approved, Respondents shall initiate implementation of the approved plan. Respondents shall create a written log of each load of waste removed from the Site pursuant to this consent order, including: the name of the transportation company and the vehicle registration number for each load of waste transported from the Site; the quantity and type of waste removed; and the name of the receiving waste facility.
 - c. Respondents shall complete removal of all waste from the Site on or before **ninety (90) days** after the Commissioner approves the plan. Respondents' consultant shall certify to the Commissioner in writing that the actions have been completed as approved and submit a copy of the written log and the receipts from the receiving waste facilities on or before **fifteen (15) days** after completing the required actions.
4. Comprehensive Plan. On or before **ninety (90) days** after issuance of this consent order, Respondents 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.11, A.15, A.20 and A.25 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, Respondents shall carry out the plan and maintain it in full effect thereafter.

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, Respondents shall submit a progress report to the Commissioner describing the actions which Respondents have taken to date to comply with this consent order.
6. Full Compliance. Respondents 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.
7. Status of Notice of Violations. This consent order supersedes Notice of Violation Nos. WSWDS14058, WSWDS15037, WSWDS16017, and WSWDS19001.
8. Civil Penalty for Violations. On or before **fourteen (14) days** after the date of issuance of this consent order, Respondents shall pay a civil penalty of **seventeen thousand dollars (\$17,000)** as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraphs A.11, A.15, A.20 and A.25 of this consent order. Payment shall be made in accordance with the provisions of paragraph B.9.
9. Payment of penalties. Payment of penalties under paragraph B.8. 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.
10. Approvals. Respondents 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 Respondents that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondents shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty (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.
11. Definitions. As used in this consent order, "Commissioner" means the Commissioner of Energy and Environmental Protection 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 Respondents or, if Respondents are not an individual, by Respondents' 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 Respondents or Respondents' 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 CGS 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 Respondents to an injunction and penalties.
15. False statements. Any false statement in any information submitted pursuant to this consent order is punishable as a criminal offense under section 53a-157b of the CGS and any other applicable law.
16. Notice of transfer; liability of Respondent. Until Respondents have fully complied with this consent order, Respondents 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. Respondents' 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. 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 Respondents 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 Respondents 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 Respondents 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 Respondents pursuant to this consent order will result in compliance.
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 neither creates nor affects any rights of persons or municipalities that are not parties to this consent order.
22. Notice to Commissioner of changes. Within fifteen (15) days of the date Respondents become 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, Respondents shall submit the correct or omitted information to the Commissioner.
23. Notification of noncompliance. In the event that Respondents become 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, Respondents 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, Respondents 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 Respondents shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondents 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 this consent order or in writing by the Commissioner, be directed to:

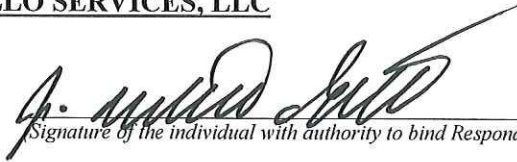
Laurene Buckowski, Sanitary Engineer 2
Department of Energy and Environmental Protection
Bureau of Materials Management and Compliance Assurance
Waste Engineering and Enforcement Division
79 Elm Street, 4th Floor
Hartford, Connecticut 06106-5127
25. Joint and several liability. Respondents shall be jointly and severally liable for compliance with this consent order.

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Respondents consent 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.

GRILLO SERVICES, LLC

BY:


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

J. Michael Grillo

Name (typed)

owner

Title

7/22/19

Date

GRILLO ORGANIC, INC.

BY:


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

J. Michael Grillo

Name (typed)

owner

Title

7/22/19

Date

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


Betsey Wingfield
Deputy Commissioner

Date

7/30/19

CONSENT ORDER NO. COWSWDS 19008

City of Milford Land Records