

STATE OF CONNECTICUT

V.

W & W, Inc.

Waldemar Bednarczyk

CONSENT ORDER No. WSWDS18004

Date Issued: May 16, 2018

- A. With the agreement of W & W, Inc. ("Respondent W & W, Inc.") and Waldemar Bednarczyk ("Respondent Waldemar Bednarczyk") together referred to hereafter as "Respondents", the Commissioner of Energy and Environmental Protection ("the Commissioner") finds:
1. Respondent W & W, Inc. owns a 3 acre parcel of land located at Cider Mill Road in Mansfield, CT identified as Assessor's Map No. 36, Block 82, Parcel 4 ("the Site").
 2. Respondent Waldemar Bednarczyk incorporated W & W, Inc. as Vice President and Secretary on January 31, 1991.
 3. Respondent Waldemar Bednarczyk formerly owned and operated Mansfield Auto Parts, Inc. (a.k.a – Mansfield Auto, Inc.) located at 214 Stafford Road in Mansfield, CT. That business and property transferred ownership in June 2017.
 4. Based on the findings of an inspection of the Site and 214 Stafford Road, Mansfield, CT performed by the Department of Energy and Environmental Protection ("the Department"), Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division on April 22, 2016:
 - a. Respondents established a solid waste facility where more than 10 cubic yards of solid waste, including but not limited to scrap tires, was disposed of after July 1, 1971 without a plan, design, and method of operation of such solid waste facility having been filed with the Department and approved by the Commissioner by the issuance of a permit to construct and operate a solid waste facility as required by Sections 22a-209-2, 22a-209-4, 22a-209-7, and 22a-209-8 of the Regulations of Connecticut State Agencies ("RCSA") and Sections 22a-208a(b) and 22a-208c of the Connecticut General Statutes ("CGS"). Specifically, the Department found several thousand scrap tires along with greater than ten cubic yards of other solid wastes discarded at the Site, including household trash, furniture, plastic vehicle gas tanks, and a fiberglass motor boat without a permit to do so.
 - b. Respondent Waldemar Bednarczyk failed to perform hazardous waste determinations for liquid wastes associated with auto repair and dismantling at his former business Mansfield Auto Parts, Inc./Mansfield Auto, Inc. that were collected and stored in a variety of containers including 5-gallon pails, 55-gallon drums, aboveground storage tanks, and an approximately 8,000-gallon underground storage tank as required by Section 22a-449(c)-102(a)(2) of the RCSA incorporating by reference Title 40 of the Code of Federal Regulations 262.11. Since the business and property on which that business is located has been sold, the new owners have taken on the responsibility of making these determinations.
 5. The Commissioner has not received an application for and therefore has not issued a solid waste facility permit for activities performed at the Site.

6. On June 16, 2016 the Department issued Notice of Violation No. WSWDS16020 to Respondent Waldemar Bednarczyk's former business, Mansfield Auto Parts, Inc./Mansfield Auto, Inc. to correct the violations identified in paragraph A.4 of this consent order.
 7. By agreeing to the issuance of this consent order, Respondents make no admission of fact or law with respect to the matters addressed herein, other than the facts asserted in paragraphs A.1 through A.3 of this consent order.
 8. By virtue of the above, the Respondents have violated Sections 22a-209-2, 22a-209-4, 22a-209-7, and 22a-209-8, Section 22a-449(c)-102 of the RCSA and Sections 22a-208a(b) and 22a-208c of the CGS.
- B. With the agreement of the Respondents, the Commissioner, acting under Sections 22a-6, 22a-131, 22a-208, 22a-225, and 22a-449 of the CGS, orders Respondents as follows:
1. Respondents shall maintain compliance with all applicable provisions of the RCSA Sections 22a-209-2, 22a-209-4, 22a-209-7, and 22a-209-8 and Sections 22a-208a(b) and 22a-208c of the CGS, including but not limited to those regulations applicable to the wastes identified in paragraph A.4.a above, in accordance with the following schedule:
 - a. On or before thirty (30) days after the date of issuance of this consent order, the Respondents shall retain one or more qualified consultants acceptable to the Commissioner to oversee the actions required under paragraphs B.1.b through B.1.e of this consent order. The Respondents shall retain such consultants or retain other qualified environmental consultants acceptable to the Commissioner until paragraphs B.1.b through B.1.e of this consent order are fully complied with, and within ten (10) days after retaining any consultants other than those originally identified under this paragraph, the Respondents shall notify the Commissioner in writing of the identity of such other consultant. The Respondents 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 description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.
 - b. On or before sixty (60) days after the date of issuance of this consent order, the Respondents shall submit, for the Commissioner's review and written approval, a disposal plan for the full removal of scrap tires and other solid wastes that have been discarded at the Site, identifying a schedule for completing the removal, frequency of shipments, and facility(ies) that will receive the waste.
 - c. Immediately upon approval of the plan required under paragraph B.1.b above, the Respondents shall implement such plan. Progress reports shall be submitted in accordance with paragraph B.2 below.
 - d. On or before fifteen (15) days after completion of the disposal activities identified in the plan approved under paragraph B.1.b above, the Respondents shall submit, for the Commissioner's review, a written statement, with supporting documentation, certifying that scrap tires and other solid wastes have been fully removed from the Site. Supporting documentation shall include, but not be limited to, copies of all photographs documenting the removal, all weight receipts, trip tickets, bills of lading, and manifests demonstrating that all wastes generated from the Site were received by a facility permitted to receive such waste.
 - e. Within forty-five (45) days of completing the actions required by paragraph B.1.b. above, Respondents' qualified consultant shall submit a report, for the Commissioner's review and approval, summarizing the results of a visual assessment of the area(s) of the Site where plastic gasoline tanks and/or containers containing gasoline and/or other chemicals were stored for evidence of any release(s), and if any release(s) are noted, the performance of necessary sampling and remediation. Such report shall include photo-documentation of the

area(s) where gasoline tanks and/or containers of gasoline and/or other chemicals were stored and any release(s), or lack thereof, was noted. If any release(s) are noted, the report shall include: 1) initial analytical results of ETPH levels, at a minimum, for samples taken from the release area(s) of the Site, 2) documentation of corrective actions taken to remove and properly dispose of contaminated soil at an appropriately permitted location(s), and 3) photo-documentation of the release area(s) where remediation occurred.

2. Progress reports. On or before the last day of each month following the 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, the Respondents shall submit a progress report to the Commissioner describing the actions taken to date by the Respondents to comply with this consent order.
3. Full compliance. The 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.
4. Civil penalty. Respondents are assessed a civil penalty of **six thousand four hundred ninety dollars (\$6,490)** as the total civil penalty to be sought by the Commissioner for the violation described in paragraph A.4.a of this consent order. Payment shall be made in accordance with the provisions of paragraph B.5 below and the following:
 - a. Within seven (7) days after the issuance of this consent order, the Respondents shall remit a payment of four hundred ninety dollars (\$490) to the Department.
 - b. If Respondents comply timely with the provisions of this consent order, the payment made pursuant to paragraph B.4.a above shall be deemed to satisfy the total civil penalty of six thousand four hundred ninety dollars (\$6,490).
 - c. If Respondents do not comply timely with any of the provisions of this consent order, then Respondents shall pay the remaining six thousand dollars (\$6,000) within fifteen (15) days of the date the Commissioner notifies any of the Respondents in writing that the remainder of the total civil penalty is due.
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, CT 06106-5127, and shall be by certified or bank check payable to the "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 this consent order. A copy of the check as well as any transmittal letter shall be mailed or delivered to Julie Dutton, Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division at the same address.
6. 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 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 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.

7. 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 the Respondents that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and the 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.
8. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
9. 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.
10. 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 the Respondents or, if the 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 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."
11. 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 Respondents to an injunction and penalties.
12. 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.
13. Notice of transfer; liability of Respondent. Until Respondents have fully complied with this consent order, the 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.

14. 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 Respondents 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 Respondents to undertake further investigation or further action to prevent or abate violations or pollution.
15. Respondents' obligations under law. Nothing in this consent order shall relieve Respondents of other obligations under applicable federal, state and local law.
16. 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 or prevent or abate pollution.
17. 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.
18. 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.
19. 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.
20. 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.

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EPT. OF ENERGY & ENVIRONMENTAL PROTECTION
BUREAU OF MATERIALS MANAGEMENT
AND COMPLIANCE ASSURANCE
WASTE ENGINEERING AND ENFORCEMENT

21. 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:

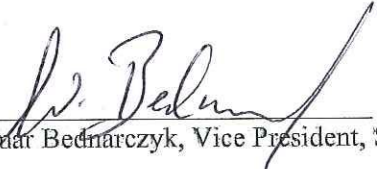
Michelle L. Gore, Sanitary Engineer 3
Department of Energy and Environmental Protection
Bureau of Materials Management and Compliance Assurance
Waste Engineering and Enforcement Division
79 Elm Street, 4th Floor
Hartford, Connecticut 06106-5127

22. Joint and several liability. Respondents shall be jointly and severally liable for compliance with this consent order.

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 Respondents to the terms and conditions of the consent order.

W & W, Inc.

BY:


Waldemar Bednarczyk, Vice President, Secretary

4.19.2018
Date

Waldemar Bednarczyk

BY:


Waldemar Bednarczyk

4.19.18
Date

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


Robert E. Kaliszewski
Deputy Commissioner

May 16, 2018
Date

Consent Order # WSWDS 18004
Town of Mansfield Land Records