



## STATE OF CONNECTICUT

### V.

#### 6 & 66 PROPERTIES, LLC

**UNILATERAL ORDER No. WSWDS 19009**

**Date Issued: 12/2/2019**

A. The Commissioner of Energy and Environmental Protection ("Commissioner") finds:

1. 6 & 66 Properties, LLC ("Respondent") is a Connecticut Limited Liability Company registered to do business with the Secretary of the State with the business address of 72 Bush Hill Road, Lebanon, CT and owns a commercial property located at 0 Route 66 East at the junction of Routes 6 & 66 in Columbia, CT ("Site"). The Site is shown on tax map No. 10 as lot 92 in the Columbia Tax Assessor's Office and more fully described on the Columbia Land Records in Deed Book No. 142 on page 196.
2. On May 24, 2010, the Commissioner issued an Authorization for the Closure of an Unpermitted Solid Waste Disposal Area ("Closure Authorization") to the Respondent for the closure of an unpermitted solid waste disposal area at the Site. The Closure Authorization required, among other things: installation and regrading of additional final cover soils; installation of ground water monitoring wells; posting of a financial assurance instrument; and the completion of all closure activities on or before September 30, 2010.
3. On June 11, 2019, the Department of Energy & Environmental Protection's ("DEEP"), Waste Engineering & Enforcement Division ("WEED") reviewed its files concerning the Respondent's compliance with the Closure Authorization. The file review indicated that the Respondent had failed to:
  - a. complete the installation and regrading of the final cover soils and the placement of vegetative cover on or before September 30, 2010 as required by Section 22a-209-4(e) of the Regulations of Connecticut State Agencies ("RCSA") and paragraph No. 3. of the Closure Authorization;
  - b. implement the water quality monitoring program described and outlined in a February 18, 2010 letter from Mark A. Reynolds, P.E. to WEED as required by Section 22a-209-4(e) of the RCSA and paragraph No. 6. of the Closure Authorization;
  - c. notify WEED staff in writing at least five (5) business days prior to the initiation of

- disposal area closure activities as required by Section 22a-209-4(e) of the RCSA and paragraph No. 12. of the Closure Authorization;
- d. submit as-built site plans (certified by a professional engineer licensed by the State of Connecticut) and a detailed description of the disposal area to the Commissioner within ninety (90) days of completion of the disposal area closure as required by Sections 22a-209-4(e) and 22a-209-4(j) of the RCSA and paragraph No. 13. of the Closure Authorization;
  - e. submit a final construction certification report to the Commissioner prepared by a qualified environmental consultant (i.e., professional engineer or licensed environmental professional) licensed by the State of Connecticut as required by Section 22a-209-4(e) of the RCSA and paragraph No. 15. of the Closure Authorization; and,
  - f. ensure that proper financial assurance, for long-term post-closure care, has been established as required by Sections 22a-209-4(e) and 22a-209-4(i) of the RCSA and paragraph No. 18. of the Closure Authorization.
4. By virtue of the above, Respondent have violated Section 22a-208a(c) of the Connecticut General Statutes (CGS), Sections 22a-209-4(e) and 22a-209-4(i) of the RCSA and paragraph nos. 3, 6, 12, 13, 15. and 18. of the Closure Authorization.
  5. On June 12, 2019, WEED issued Notice of Violation No. NOVWSWDS19030 ("Notice") to the Respondent requiring correction of the violations listed in paragraph A.3.a. through A.3.f. of this Order.
  6. On July 17, 2019, WEED issued Notice of Violation No Response Letter to the Respondent advising that the Notice was outstanding and the violations continue unabated.
  7. To date, the Respondent continues to remain substantially in non-compliance with the terms and conditions of the issued Notice and Closure Authorization.
  8. On October 22, 2019, WEED received the Respondent's supplemental submission, in support of their claim of an inability to financially complete the required closure, consisting of three (3) prior years of tax disclosures (2016, 2017, 2018), which appear to support their claim.
- B. The Commissioner, acting under Sections 22a-6, 22a-208 and 22a-225 of the CGS, orders the Respondent as follows:
1. Compliance. Respondent shall correct all violations identified in paragraph A.3. of this Order and shall maintain its compliance with all applicable provisions of Connecticut's solid waste management regulations and the Closure Authorization. In particular:
    - a. On or before **thirty (30) days** after the issuance of this Order, the Respondent shall identify, for the Commissioner's review and written approval, one or more qualified



consultant(s) to prepare the documents and oversee the actions required by this Order. The Respondent shall retain one or more qualified consultants as approved by the Commissioner until they comply with this Order. Within ten (10) days after retaining any qualified consultant(s) other than one originally identified and approved under this paragraph, the Respondent 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(s), Respondent 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 Order. The consultant(s) retained to prepare the documents and implement or oversee the actions required by this Order must be an independent, registered professional engineer in the State of Connecticut ("P.E.") or must provide professional services in accordance with Section 22a-133v-1 through 8 of the RCSA (the Licensed Environmental Professional Regulations) and must provide professional services in accordance with the Solid Waste Management Regulations. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.

- b. On or before **forty-five (45) days** after the date of issuance of this Order, Respondent shall ensure that a proper financial assurance instrument, for long-term post-closure care, has been established pursuant to Section 22a-209-4(i) of the RCSA.
  - c. On or before **sixty (60) days** after the date of issuance of this Order, Respondent shall implement the water quality monitoring program as described and outlined in a February 18, 2010 letter from Mark A. Reynolds, P.E. to DEEP.
  - d. On or before **June 1, 2020**, Respondent shall complete the installation and regrading of the final cover soils and the placement of vegetative cover at the Site unless otherwise approved in writing by the Commissioner.
  - e. On or before **ninety (90) days** after the completion of the final cover system required by condition No. B.1.d. or this Order, Respondent shall, in accordance with Section 22a-209-13 subsections (f) and (g) of the RCSA: (i) record on the appropriate municipal land records: (a) a complete set of as-built site plans certified by a P.E. licensed to practice in the State of Connecticut or a licensed environmental professional ("L.E.P.") licensed by the State of Connecticut depicting the disposal area; and (b) a detailed description of the disposal area in a format approved by the Commissioner; (ii) submit to the Commissioner a copy of the as-built site plans and a copy of the detailed description certified by the municipal clerk as true copies and indicating the volume and page reference to the deed to the property on which the disposal area is located; and, (iii) submit to the Commissioner a final construction certification report prepared by a P.E. or L.E.P. verifying that the closure activities were conducted in accordance with the approved Closure Authorization's plans and specifications.
2. Progress reports: On or before the last day of January, April, July and October 2020 and continuing until all actions required by this 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 have taken to date to comply with this Order.

3. Full compliance. Respondent shall not be considered in full compliance with this Order until all actions required by this Order have been completed as approved and to the satisfaction of the Commissioner.
4. Sampling. All sampling 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 most recent final version of the EPA publication SW-846, entitled "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," the most recent final version of the Department's "Site Characterization Guidance Document," and relevant policies and guidelines issued by the Commissioner.
5. Sample analyses. All sample analyses which are required by this Order and all reporting of such sample analyses shall be conducted by a laboratory certified by the Connecticut Department of Public Health and approved to conduct such analyses.
6. Approvals. Respondent shall use best efforts to submit to the Commissioner all documents required by this 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 thirty (30) days of the Commissioner's notice of deficiencies. In approving any document or other action under this 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 Order. Nothing in this paragraph shall excuse noncompliance or delay.
5. Definitions. As used in this Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
6. Dates. The date of "issuance" of this Order is the date the 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 Order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this 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 Order, the word "day" as used in this Order means calendar day. Any document or action which is required by this 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.
7. Certification of documents. Any document, including but not limited to any notice,



which is required to be submitted to the Commissioner under this Order shall be signed by Respondent or, if Respondent is not an individual, by the 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 RCSA, and by the individual(s) responsible for actually preparing such document, and Respondent or the 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 §53a-157b of the CGS and any other applicable law."*

8. False statements. Any false statement in any information submitted pursuant to this Order may be punishable as a criminal offense under §53a-157b of the CGS and any other applicable law.
9. Notice of transfer; liability of Respondent and others. Until Respondent have fully complied with this 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 Order, the Site or the business, or obtaining a new mailing or location address. Respondent's obligations under this Order shall not be affected by the passage of title to any property to any other person or municipality
10. Commissioner's powers. Nothing in this 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 the Respondent pursuant to this 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.
11. Respondent's obligations under law. Nothing in this Order shall relieve Respondent of other obligations under applicable federal, state and local law.
12. No assurance by Commissioner. No provision of this 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 Order will result in compliance or prevent or abate pollution.
13. No effect on rights of other persons. This Order shall neither create nor affect any rights of persons who or municipalities which are not parties to this Order.
14. 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 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.

15. 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 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.
16. Submission of documents. Any document required to be submitted to the Commissioner under this Order shall, unless otherwise specified in writing by the Commissioner, be directed to:

Stan Gormley, Environmental Analyst III  
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

Issued as an Order of the Commissioner of Energy and Environmental Protection.

  
Betsey Wingfield  
Deputy Commissioner

  
Date

Unilateral Order No. WSWDS 19009

c: Town of Columbia Land Records, Robin M. Kenefick, Town Clerk, 323 Jonathan Trumbull Highway, Columbia, CT 06237