



STATE OF CONNECTICUT :
v. :
WINDHAM SOLAR LLC, :
AND :
ECOS ENERGY LLC :

CONSENT ORDER NO. COWRSW18002

Date Issued: September 18, 2018

A. The Commissioner of Energy and Environmental Protection (“the Commissioner”) finds:

1. Windham Solar, LLC (“Windham Solar”) is a Connecticut Limited Liability Company with a business address of c/o Allco Finance Limited, 1740 Broadway, 15th floor, New York, New York 10019.
2. Ecos Energy LLC (“Ecos”) is a Minnesota Limited Liability Company with a principal place of business at 222 S 9th Street #1600 Minneapolis, MN 55402.
3. Collectively, Windham Solar and Ecos are referred to as the Respondents.
4. The Respondents have constructed five one-megawatt ground-mounted solar photovoltaic facilities (“the Solar Arrays”) located at 1 Williams Crossing in Lebanon and 948 Windham Road, North Franklin, Connecticut. The property on which the solar arrays are located is primarily in Lebanon and consists of approximately 39.02 acres in Lebanon and 5.52 acres in Franklin (“the Site”). The first Solar Array entered commercial operation on December 15, 2017, and the last four entered commercial operation on February 28, 2018. The Solar Arrays are adjacent to each other and, within the Site, occupy approximately 21 acres in Lebanon and 1 acre in Franklin.
5. On September 25, 2017, the Respondents notified DEEP that C-Tec Solar would be the general contractor for the Solar Arrays as an electrical contractor and manager for the civil work and that the inspector for the site work would be Anthony Gerolomo from C-Tec Solar.

STORMWATER VIOLATIONS

6. Construction of the Solar Arrays disturbed greater than one acre at the Site and as such, a stormwater discharge permit from the Commissioner is required.

7. On July 27, 2017, Ecos submitted to the Department of Energy and Environmental Protection (“Department” or “DEEP”) on behalf of Windham Solar a registration application seeking authorization under the General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities (“the General Permit”). This application included the submittal of a Stormwater Pollution Control Plan (SWPCP) required by the General Permit.
8. The Respondents began construction of the Solar Arrays at the Site sometime in August 2017 without any notice to or approval from the Commissioner.
9. On October 17, 2017, Windham Solar’s application, including its SWPCP, was approved by the Commissioner, as registration No. GSN003212. The Site’s SWPCP indicated that the Site would be disturbed and the Solar Arrays would be constructed in phases to minimize disturbed areas and ensure disturbed areas were stabilized prior to constructing the next phase. Section 5(b)(2)(A)(i) of the General Permit requires stabilization of disturbed areas within seven (7) days of reaching final grade or if an area of the Site will remain inactive for thirty (30) days.
10. Department staff inspected the Site on April 17, 2018. Even though much of the Site had been disturbed and the Solar Arrays had been installed, Department staff observed, during the inspection, that: the Site lacked adequate temporary or permanent soil stabilization with evidence of erosion; sediment had breached the siltation fence and moved outside the project limits in the direction of adjacent wetlands and buffer areas to those wetlands; temporary sediment traps that were installed were not constructed or maintained in conformance with the Connecticut Guidelines for Erosion and Sedimentation Control or in accordance with the SWPCP with two such traps exhibiting signs of embankment failure; and several traps were undersized. All the Solar Arrays were constructed at the Site as of that date despite the fact that the Site was not stabilized and proper sediment traps were not installed in accordance with the SWPCP.
11. In March 2018, Ecos contacted the Department to report that Windham Solar was going to add an additional one-megawatt solar array already approved by the Connecticut Siting Council and would be seeking to expand the footprint for such one-megawatt solar array from the Connecticut Siting Council. The footprint necessary for this additional megawatt solar array was not part of the approved registration. Accordingly, Department staff informed Ecos that separate approval under the General Permit would be required before any construction of the proposed expansion of the footprint to accommodate the one-megawatt solar array, including any disturbance of the proposed expansion area could occur. This expansion area is referred to as the “1-megawatt Site” in the remainder of this Order.
12. During the inspection on April 17, 2018, Department staff also observed that the Respondents had disturbed approximately 2 acres on the Site outside of the footprint covered by GSN003212, including the 1-megawatt Site, without any additional approval from the Department.

13. Pursuant to Section 5(b)(4)(A) of the General Permit, a “Plan Implementation Inspection” must be conducted within the project’s first thirty (30) days to ensure compliance with the General Permit and proper implementation of all control measures designated in the SWPCP. Department staff requested the Plan Implementation Inspection Report on March 22, 2018 and instead received a memo from All-Points Technology Corporation, P.C. (All-Points) on April 25, 2018 (the “All Points Memo”). The All Points Memo, dated April 25, 2018, did not meet the requirements for a Plan Implementation Inspection Report as stated in the General Permit. However, it identified and made recommendations regarding conditions that it observed in between October 26, 2017, and November 24, 2017, which conditions included: lack of stabilization; side slope sloughing and risk of catastrophic failure at two temporary sediment traps, identified as TST-P2 and TST-P1C; and compromised siltation fence northeast of TST-P1A, including evidence of over-topping at that location.
14. Prior to Department staff’s visit to the Site on April 17, 2018, the Department had not been notified of any non-compliance with the General Permit despite the conditions noted in the All-Points Memo.
15. Pursuant to Section 5(b)(4)(B) of the General Permit, “Routine Inspections” are to be conducted on a weekly basis and after any rain event that generates a discharge. The inspector shall evaluate the effectiveness of erosion and sediment controls, structural controls, stabilization practices and any other controls implemented to prevent pollution and determine if it is necessary to install, maintain, or repair such controls and/or practices to improve the quality of stormwater discharge(s). The inspector shall also sign a statement indicating whether the Site is in compliance with the General Permit and the SWPCP.
16. The Department received a package of inspection reports that indicate disturbance at the Site began prior to August 20, 2017. The inspection reports submitted do not comply with the requirements of section 5(b)(4)(B) of the General Permit. The inspection reports, which identified Anthony Gerolomo of C-Tec Solar as the reviewer, do not note any non-compliance with the General Permit or SWPCP despite the Department’s observations on April 17, 2018 as articulated in paragraph A.10. of this Order and despite the conditions noted in the All Points Memo. The inspection reports note issues with siltation fencing and the discharge of sediments beyond the siltation fencing after a rain event in January 2018 and again during the monthly inspection in March 2018 but the Department was never notified of any noncompliance under section 5(g) of the General Permit.
17. Pursuant to Section 5(c)(1) of the General Permit, turbidity sampling shall be conducted at the Site at least once per month when there is a discharge of stormwater from the Site while construction activity is ongoing until final stabilization of the drainage area with the results sent to the Department. Although construction activities have been authorized at the Site since October 2017, no turbidity sampling results have ever been sent to Department or entered into the electronic reporting system known as NetDMR.

18. As a result of the activities noted in paragraphs A.7 through A.17 of this Order, eroded soils and sediments from the Site have been deposited beyond project limits in buffer areas to inland wetlands, risking pollution to such wetlands, and a non-recoverable amount of silt entered the edge of an inland wetland on the Site.

ENFORCEMENT SUMMARY

19. On May 3, 2018, the Commissioner issued Cease and Desist Order No. 2018003DEEP (“the Cease and Desist Order”) to the Respondents and to Allco Finance Limited, prohibiting any further activities at the Site including, but not limited to, all construction of or testing activities related to the Solar Arrays, vehicular movement on the Site, and any movement of soil, unless such activity was required by or in compliance with the Cease and Desist Order or was otherwise approved by the Commissioner in writing. The Cease and Desist Order also required that a number of corrective measures be taken before testing and installation could re-commence and before the Solar Arrays could be energized for commercial operation.
20. In response to the Cease and Desist Order, the Respondents have performed the following in compliance with the Cease and Desist Order and the General Permit:
- a. Hired consultants acceptable to the Commissioner to design and implement a plan to stabilize and achieve compliance with the General Permit;
 - b. Completed a topographic survey of existing conditions at the Site;
 - c. Temporarily stabilized the site to mitigate risk of potential erosion and discharge of sediments;
 - d. Presented and received approval of a plan for permanent stormwater controls;
 - e. Submitted a \$400,000 financial assurance to be held by the Commissioner pending compliance;
 - f. Submitted and received approval of a remediation plan to address impacted areas beyond the project limits; and
 - g. Implemented temporary erosion and sedimentation control measures in compliance with the General Permit.

CONCLUSION

21. By virtue of the above, the Commissioner finds that the Respondents have violated and are continuing to violate the terms and conditions of the General Permit and registration No. GSN003212 and have violated and are continuing to violate Connecticut General Statutes §§ 22a-427 and 22a-430.
22. By agreeing to the issuance of this Consent Order, the 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.6, inclusive.
- B. Pursuant to Comm. Gen. Stat. §§ 22a-6, 22a-424, and § 22a-432 the Commissioner orders the Respondents to do the following:

1. Prohibited Activities.

- a. The Respondents shall refrain from further testing of the Solar Arrays constructed at the Site until the Commissioner has determined in writing that the Respondents have:
 - i. Completed implementation of the approved Plan in accordance with paragraph B.4.c. of this Order exclusive of the establishment of permanent stabilization at the Site; and
 - ii. Paid the civil penalty required by paragraph B.11 of this Order.
- b. The Respondents shall refrain from any further construction of any solar array at the Site, including, but not limited to, the construction of an additional solar array on the 1-megawatt Site or any further disturbance of any other area of the Site not currently covered by the approved SWPCP except to implement the control measures required by the Plan, until:
 - i. The Respondents have submitted a new registration application for the 1-megawatt Site under the General Permit;
 - ii. The Commissioner has approved the new registration application in writing; and
 - iii. The Respondents have provided written notice that they have completed the Plan in accordance with paragraph B.4.b. of this Order and any other stabilization and stormwater erosion and sedimentation controls measures required by the registration approved in accordance with clause B.1.b.ii. of this Order.

2. Consultants.

- a. The Respondents have retained the following consultants or firms approved by the Commissioner to prepare documents and implement or oversee actions required by this Order in the subject area identified for each consultant listed below:

Ellen Bartlett, P.E., CLA Engineers – Lead design engineer and site inspection related to design implementation and construction monitoring

Robert Russo, Soil Scientist, CLA Engineers – Weekly and rain event SWPCP inspection, weekly plan implementation and construction monitoring

Robert Mullen, LS, CLA Engineers – Construction staking, construction monitoring

Rob Hellstrom, L.S. – Survey of as-built area to T-2 Standards

Brian Long, P.E. – Completion of Plan implementation inspection and report required by section 5(b)(4)(A) of the General Permit.

Mike Godino, Milton C. Beebe and Sons, Inc. – Site Construction and Construction Management.

- b. The Respondents shall continue to retain the respective consultants identified in paragraph B.1.a of this Order or other qualified consultants acceptable to the Commissioner, to prepare documents and implement or oversee actions required by this Order, until full compliance with this Order has been achieved. No later than three (3) days after retaining any consultant other than one(s) identified in paragraph B.1.a of this Order, the Respondents shall submit to the Commissioner the identity of such other consultant(s) for the Commissioner's review and written approval. Unless otherwise specified in this Order or approved by the Commissioner in writing, any engineering consultant(s) retained by the Respondents shall be a Professional Engineer acceptable to the Commissioner with a current valid license to practice in Connecticut. If requested by the Commissioner, 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 Order within ten (10) days after a request for such a description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.
 - c. The Soil Scientist and Construction Monitoring consultants identified in paragraph B.1.a of this Order, or other consultant(s) approved by the Commissioner under paragraph B.1.b of this Order, shall confirm compliance in the field with all the stabilization requirements of paragraph B.3. of this Order and monitor the construction of the control measures to be implemented in accordance with paragraphs B.4.a. of this Order. Such monitoring of the construction shall include the on-site presence of an individual or individuals from CLA Engineers identified in paragraph B.2.a. of this Order at a minimum of twice a week and as deemed necessary by the lead design engineer from CLA Engineers to ensure construction is completed in compliance with the Plan.
3. Site stabilization
- a. In accordance with the SWPCP and in order to comply with the Cease and Desist Order, the Respondents have undertaken stabilization measures at the Site including, but not limited to, applying tackifier, using crushed stone, straw matting, or erosion control blankets, and spraying hay at the Site to prevent soil erosion, including, but not limited to, the migration of sediments, at or from the Site. The Respondents shall maintain these site stabilization measures until permanent stabilization at the Site is achieved through a vegetative cover or some other means approved in writing by the Commissioner in accordance with paragraph B.4.d. of this Order.

- b. In the event that during any activities at the Site the Respondents disturb the tackifier or other measures used to establish stabilization of the Site, the Respondents shall reapply tackifier, or take whatever other measures are necessary to reestablish stabilization at the Site, no later than at the end of each working day, to ensure that the Site remains stabilized and to prevent soil erosion, including, but not limited to, the migration of sediments at or from any portion of the Site.
 - c. Wherever the Respondents have applied tackifier or other stabilization measures at the Site, if in the opinion of the Commissioner the tackifier or other stabilization measures at the Site have failed to stabilize and prevent soil erosion, including, but not limited to the migration of sediments, at or from the any portion of the Site, the Respondents shall either reapply tackifier or install Connecticut State Department of Transportation approved erosion control matting (depending on weather conditions and the growth cycle) in all areas where, in the Commissioner's opinion, stabilization has failed to occur at the Site.
4. Stormwater Erosion and Sedimentation Control Plan and Plan Implementation
- a. The Respondents shall implement the plan for temporary and permanent erosion and sedimentation controls as detailed in a set of plans consisting of twelve (12) sheets titled "Windham Solar Construction Documents for Site/Electrical Layout, Grading Drainage/Erosion Control/Landscaping in Lebanon, Connecticut," prepared and stamped by CLA Engineers, Inc., and dated June 5, 2018 (referred to elsewhere in this Order as the "Plan"). The Plan (exclusive of establishment of the permanent vegetative cover) shall be implemented in full within thirty (30) days of the issuance of this Order or in accordance with a more detailed schedule otherwise approved in writing by the Commissioner.
 - b. No later than twenty-one (21) days after completing the implementation of the Plan, (exclusive of the establishment of a permanent stabilization and the monitoring and maintenance required under paragraphs B.4.e and B.5 of this Order), the Respondents shall provide the Commissioner a written notification of such completion and submit the following to the Commissioner:
 - i. As-built drawings of the stormwater controls at the Site signed and sealed by a Professional Engineer with a current valid license to practice in Connecticut; and
 - ii. A photographic record sufficient for the Commissioner to determine if the stormwater controls have been installed or modified in accordance with the Plan.
 - c. After receipt of the documentation required by paragraph B.4.b. of this Order, the Commissioner shall make a written determination, within a reasonable time period, whether the installation of such permanent stormwater control measures is satisfactory to the Commissioner. Any such determination shall not be

unreasonably withheld. If implementation of the Plan is deemed unsatisfactory by the Commissioner, additional work shall be performed by the Respondents in accordance with a supplemental plan and schedule approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted by the Respondents for the Commissioner's review and written approval on or before fourteen (14) days after notice from the Commissioner that additional work is necessary.

- d. No later than ten (10) days after the establishment of a permanent vegetative cover or other measure necessary for permanent stabilization of all areas of the Site approved in writing by the Commissioner, the Respondents shall provide the Commissioner a written notification of such completion and submit to the Commissioner a photographic record sufficient to demonstrate to the Commissioner that such permanent vegetative cover or other permanent stabilization measure has been established at the Site in accordance with the Plan approved by the Commissioner.
 - e. After receipt of the materials required by paragraph B.4.d. of this Order, the Commissioner shall make a written determination whether the vegetative cover or other control measure necessary for permanent stabilization of all areas of the Site has been established to the satisfaction of the Commissioner. Any such determination shall not be unreasonably withheld. If the Commissioner determines that permanent stabilization at the Site had not been established, the Respondents shall perform additional work in accordance with a supplemental plan and schedule approved by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted by the Respondents for the Commissioner's review and approval on or before ten (10) days after notice from the Commissioner that additional work is necessary.
5. Monitoring. After the Commissioner determines that permanent stabilization at the Site has been established pursuant to paragraph B.4.e. of this Order, the Respondents shall implement the monitoring and maintenance required by the Plan. Such monitoring shall be conducted for a minimum of ninety (90) days from the establishment of permanent stabilization and until such time as the Commissioner accepts a Notice of Termination under the General Permit. The Respondents shall take any corrective action needed to ensure the effectiveness of stormwater controls at the Site.
 6. Compliance with the General Permit. Unless otherwise specified in writing by the Commissioner, the Respondents shall continue to comply with the General Permit and shall ensure that all activities at the Site remain in compliance with the General Permit.
 7. Remediation
 - a. The Respondents shall implement the remedial actions in the Soil Scientist Report submitted by CLA Engineers, as approved in writing by the Commissioner. The Respondents shall implement such remedial actions as soon as practicable, but no

later than October 31, 2018 unless the Commissioner has approved in writing another course of action submitted by the Soil Scientist identified in paragraph 2.a. of this Order based on existing conditions at the Site. Within fifteen (15) days after completing such remedial actions, the Respondents shall notify the Commissioner in writing that such remedial actions, if any were required by the approved Soil Scientist Report, have been completed.

- b. If, in the Commissioner's judgment, the Respondents fail to reasonably complete the approved remedial actions or take the otherwise approved course of action to ensure erosion and sedimentation impacts from the Site have been sufficiently addressed, additional assessment and remediation shall be performed by the Respondents in accordance with a supplemental plan and schedule proposed by Respondents and approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the Respondents shall submit such supplemental plan and schedule for the Commissioner's review and written approval on or before thirty (30) days after notice from the Commissioner that such plan is required.
8. Financial assurance The Respondents have deposited with the Commissioner and the Commissioner has accepted into a non-interest bearing account, the amount of \$400,000.00 as financial assurance that the Respondents will comply with this Consent Order. The Commissioner will release the funds to the Respondents in accordance with the following schedule but only after they have complied with the requirement to pay a civil penalty in accordance with paragraphs B.11 and B.12 of this Order:
- a. After submission of documentation that the temporary and permanent control measures, exclusive of the permanent vegetative cover have been constructed in accordance with the Plan in accordance with paragraph B.4.b. of this Order, the Commissioner will release \$100,000.00.
 - b. After DEEP's approval of the as-built plans in accordance with paragraph B.4.c. of this Order, the Commissioner will release \$100,000.00.
 - c. After the establishment of the permanent stabilization is confirmed in accordance with paragraphs B.4.e. of this Order, the Commissioner will release \$100,000.00.
 - d. After completion of the Remediation to the Commissioner's satisfaction in accordance with paragraph B.7. and the monitoring in accordance with paragraph B.5. of this Order, the Commissioner will release all remaining funds.
9. Progress reports
- a. Except as provided in paragraph B.9.b of this Order, or unless another schedule is approved by the Commissioner in writing, on or before the last day of each month following issuance of this Order and continuing until all actions required by this Order have been completed as approved and to the satisfaction of the Commissioner, the Respondents shall submit a progress report to the Commissioner

that describes the actions which Respondents have taken during the month of the report to comply with this Order.

- b. During the time that the Respondents is constructing the stormwater controls in accordance with the Plan, until the Respondents has completed implementation of such controls, the Respondents shall submit weekly progress reports. Such weekly report shall identify the work performed during the week preceding the report, including but not limited to, details regarding how construction was performed and the work expected to be completed during the week following the report. Unless otherwise specifically requested by the Commissioner in writing, such weekly reports do not need to be submitted when the post-construction stormwater controls are being monitored or maintained.
 - c. Unless otherwise specified by the Commissioner in writing, progress reports under this section may be sent to electronically to Sharon.Yurasevecz@ct.gov.
10. Full compliance. The Respondents shall not be considered in full compliance with this Order until the Respondent's activities at the Site are in compliance with the General Permit, and all other actions required by this Order have been completed as approved and to the Commissioner's satisfaction.
 11. Civil Penalty. The Respondents shall pay a penalty of \$200,000.00 as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraphs A.8 through A.18 of this Order in accordance with paragraph B.12 of this Order.
 12. Payment of Civil Penalties. On or before thirty (30) days after the issuance of this Order, the Respondents shall pay the \$200,000.00 penalty referenced in paragraph B.11. by wire transfer in accordance with instructions provided by the Commissioner, or by mail or personal delivery to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127. Such payment 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, Water Permitting and Enforcement Division, civil penalty, Consent Order # COWRSW18002".
 13. Approvals. The Respondents 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 the 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 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 Order. Nothing in this paragraph shall excuse noncompliance or delay.

14. Definitions. As used in this Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
15. 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 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 on or before the next day which is not a Saturday, Sunday, or a Connecticut or federal holiday.
16. 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 a responsible corporate officer of the Respondents or a duly authorized representative of such officers, 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, each of whom 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 is as a criminal offense under Conn. Gen. Stat. § 53a-157b and any other applicable law."
17. Noncompliance. Failure to comply with this Order may subject the Respondents to an injunction and penalties.
18. False statements. Any false statement in any information submitted pursuant to this Order may be punishable as a criminal offense under Conn. Gen. Stat. § 53a-157b or any other applicable law.
19. Notice of and effect of transfer; liability of Respondents and others. Until the Respondents have fully complied with this Order, the Respondents shall within fifteen days of such transfer, notify the Commissioner in writing of any transfer after the date of issuance of this Order by Windham Solar or its immediate parent of all or any portion of the facility, the operations, the Site or the business which is the subject of this Order or after obtaining a new mailing or location address. The Respondents' obligations under this Order shall not be affected by the passage of title to any property to any other person or municipality or by the transfer of the Respondents' interest in the Site, or the transfer of ownership or operation of the Solar Arrays. In addition, any such transfer shall

contain a condition requiring that the Respondents retain the ability to comply with the requirements of this Order.

20. Commissioner's powers. Except as provided herein in this Order, with respect to payment of penalties, 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 or this Order, 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 the Respondents pursuant to this Order have not successfully corrected all violations, fully characterized the extent and degree of pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require the Respondents to undertake further investigation or further action to prevent or abate violations or pollution.
21. Respondents' obligations under law. Nothing in this Order shall relieve the Respondents of other obligations under applicable federal, state and local law.
22. 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 the Respondents pursuant to this Order will result in compliance or prevent or abate pollution.
23. 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 Order.
24. No effect on rights of other persons. This Order neither creates nor affects any rights of persons who or municipalities which are not parties to this Order.
25. Notice to Commissioner of changes. Within fifteen (15) days of the date the Respondents become 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, the Respondents shall submit the correct or omitted information to the Commissioner.
26. Notification of noncompliance. In the event that the Respondents become aware that they 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, the Respondents shall immediately notify by telephone or e-mail the individual identified in the next paragraph of this Order 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, the 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 Commissioner's review and written approval, dates by which compliance will be achieved, and the Respondents shall comply with any dates which may be approved in writing by the Commissioner. Notification by the 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.

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

Sharon Yurasevecz
Department of Energy and Environmental Protection
Bureau of Materials Management & Compliance Assurance
Water Permitting & Enforcement Division
Hartford, CT 06106-2127
Sharon.Yurasevecz@ct.gov

28. Relationship to Cease and Desist Order This Consent Order supersedes Cease and Desist Order No. 2018003DEEP issued to the Respondents on May 3, 2018. As a result, upon the Effective Date of this Order, the Cease and Desist Order No. 2018003DEEP shall no longer be considered in effect as if such Order was fully withdrawn.

29. Without limiting any authority it has to take any action to prevent the continued operation of the Solar Arrays for future violations of law or of this Order, the Commissioner affirms that nothing in this Order shall prevent the continued operation of the Solar Arrays.


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.

Windham Solar LLC

Ecos Energy LLC




Thomas Melone
Its: *President*
Date: *9/14/18*



Thomas Melone
Its: *President*
Date: *9/14/18*

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



Robert E. Kaliszewski
Deputy Commissioner

September 18, 2018

Date

CONSENT ORDER NO.
TOWN OF LEBANON
TOWN OF FRANKLIN
LAND RECORDS