



STATE OF CONNECTICUT

V.

AUTO- SWAGE PRODUCTS, INC.

CONSENT ORDER No. 2012001DEP

Date of Issuance: September 19, 2012

A. With the agreement of Auto-Swage Products, Inc. ("Respondent"), the Commissioner of the Department of Energy and Environmental Protection ("the Commissioner") finds:

1. Respondent is a corporation which is or has been engaged in metal finishing operations at 726 River Road in Shelton, Connecticut ("the site").
2. On May 29, 2007, the Commissioner issued National Pollutant Discharge Elimination System Permit No. CT0020826 ("the Wastewater Discharge Permit") to Respondent for discharges from the activities described above. Section 1, Paragraph (H) of this permit requires Respondent to pay an annual fee to maintain compliance with section 22a-430-7 of the Regulations of Connecticut State Agencies.
3. On November 23, 2011, Respondent submitted an application to renew the Wastewater Discharge Permit. Section 22a-430-6 of the Regulations of Connecticut State Agencies requires Respondent to pay an application processing fee to renew this permit.
4. Respondent previously operated two surface impoundments for the treatment and disposal of metal hydroxide sludge. The impoundments were closed as a landfill on December 3, 1990. At that time, Respondent began thirty (30) years of post-closure care and monitoring. In conjunction with its post-closure activities, Respondent must pay annual fees for groundwater monitoring (reference Hazardous Waste Identification No. CTD064832611G) and the landfill (reference Hazardous Waste Identification No. CTD064832611T).
5. Respondent has accrued delinquent annual and permit application processing fees associated with the maintenance and renewal of the Wastewater Discharge Permit, and annual fees associated with post-closure activities at the site, as well as interest charges, totaling in excess of \$59,000. A summary of fees due as of August 31, 2012 is included as *Attachment A* of this consent order.
6. By virtue of the above, Respondent has violated Section 1 Paragraph (H) of the Wastewater Discharge Permit, sections 22a-430-6 and 22a-430-7 of the Regulations of Connecticut State Agencies, and sections 22a-454b and 22a-454c of the Connecticut General Statutes.

B. With the agreement of Respondent, the Commissioner, acting under sections 22a-6 and 22a-424 of the Connecticut General Statutes, orders Respondent as follows:

1. a. Effective on the date of issuance of this consent order, Respondent shall initiate payment of all delinquent and current fees, as well as accrued interest charges, owed the Department at a minimum rate of five hundred dollars (\$500.00) per week. Respondent shall continue to make weekly payments until all outstanding balances in *Attachment A* and any and all additional fees (including late fees and interest) have been paid. Missed payments must be received by the Department no later than the last day of the month following that in which the missed payment was due.
  - b. Once all outstanding fees have been paid in accordance with paragraph B.1.a of this consent order, unless otherwise directed by the Commissioner in writing, Respondent shall continue to make weekly payments at the minimum rate of five hundred dollars (\$500.00) per week to the Connecticut Department of Energy and Environmental Protection, to be applied towards ongoing fees and/or interest charges associated with the Wastewater Discharge Permit and the post-closure activities at the site.
  - c. All payments 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 made payable to the Connecticut Department of Energy and Environmental Protection. Each check shall state on its face, "Bureau of Materials Management and Compliance Assurance, WPED Consent Order No. 2012001DEP.
  - d. Failure to comply with the schedule outlined in B.1.a. and B.1.b. or failure to maintain compliance with the terms and conditions of the Wastewater Discharge Permit shall result in the forfeiture and termination of the Wastewater Discharge Permit under section 22a-430-4(p)(4) of the Regulations of Connecticut State Agencies.
2. Full compliance. Respondent shall not be considered in full compliance with this consent order until all actions required by this consent order have been completed as approved and to the Commissioner's satisfaction.
  3. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
  4. 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 legal Connecticut or federal holiday shall

be submitted or performed by the next day which is not a Saturday, Sunday or legal Connecticut or federal holiday.

5. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this consent order shall be signed by Respondent or, if Respondent is not an individual, by Respondent's chief executive officer or a duly authorized representative of such officer, as those terms are defined in section 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and Respondent or 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 is punishable as a criminal offense under section 53a-157b of the Connecticut General Statutes and any other applicable law."

6. 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 Respondent to an injunction and penalties.
7. 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 Connecticut General Statutes and any other applicable law.
8. Notice of transfer; liability of Respondent. Until Respondent has fully complied with this consent order, Respondent shall notify the Commissioner in writing no later than fifteen (15) days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this consent order or after obtaining a new mailing or location address. Respondent's obligations under this consent order shall not be affected by the passage of title to any property to any other person or municipality. **The Wastewater Discharge Permit shall be non-transferable until full compliance with this consent order has been achieved.**
9. Commissioner's powers. Nothing in this consent order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this consent order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate violations or pollution.
10. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.

11. No assurance by Commissioner. No provision of this consent order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this consent order will result in compliance.
12. Access to site. Any representative of the Department of 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.
13. 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.
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 consent order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.
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 consent order or of any document required hereunder, Respondent shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, Respondent shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.
16. Submission of documents. Any document required for submission to the Commissioner under this consent order shall, unless otherwise specified in this consent order or in writing by the Commissioner, be directed to:

Diane D. Foberg, Environmental Analyst  
Department of Energy and Environmental Protection  
Bureau of Materials Management and Compliance Assurance  
Water Permitting and Enforcement Division  
79 Elm Street  
Hartford, Connecticut 06106-5127

Respondent consents to the issuance of this consent order without further notice. The undersigned certifies that he/she is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order. A corporate resolution granting such authorization is attached hereto as Attachment B.

RESPONDENT

BY:   
\_\_\_\_\_  
Keith Brenton  
President

August 31 2012  
Date

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

on 9/19/12.

  
\_\_\_\_\_  
Macky McCleary  
Deputy Commissioner

cc: City of Shelton Land Records

**ATTACHMENT A**

**Auto Swage Client# 994021– Past Due Fees**

(totals are based on actual invoices dated 5/10-7/12, with projected late fee thru 8/31/12)

**Permit# CT0020826**

|                                  |           |                  |
|----------------------------------|-----------|------------------|
| 2010 Annual Fees (due 6/30/10)   | \$        | 9,200.00         |
| Late Fees                        | \$        | 3,886.12*        |
| 2011 Annual Fees (due 6/30/11)   | \$        | 9,200.00         |
| Late fees                        | \$        | 2,471.40*        |
| Permit Renewal – Processing Fees | \$        | 13,650.00        |
| 2012 Annual Fees (due 6/30/12)   | \$        | 9,200.00         |
| Late fees                        | \$        | 1,162.94*        |
| <b>Total</b>                     | <b>\$</b> | <b>48,770.46</b> |

**Permit# CTD064832611G**

|                                |           |                 |
|--------------------------------|-----------|-----------------|
| 2010 Annual Fees (due 6/30/10) | \$        | 940.00          |
| Late Fees                      | \$        | 464.19*         |
| 2011 Annual Fees (due 6/30/11) | \$        | 940.00          |
| Late fees                      | \$        | 282.07*         |
| 2012 Annual Fees (due 6/30/12) | \$        | 940.00          |
| Late fees                      | \$        | 118.82*         |
| <b>Total</b>                   | <b>\$</b> | <b>3,685.08</b> |

**Permit# CTD064832611T**

|                                |           |                 |
|--------------------------------|-----------|-----------------|
| 2010 Annual Fees (due 6/30/10) | \$        | 1,750.00        |
| Late Fees                      | \$        | 859.84*         |
| 2011 Annual Fees (due 6/30/11) | \$        | 1,750.00        |
| Late fees                      | \$        | 523.11*         |
| 2012 Annual Fees (due 6/30/12) | \$        | 1,750.00        |
| Late fees                      | \$        | 221.22*         |
| <b>Total</b>                   | <b>\$</b> | <b>6,854.17</b> |

**Total Outstanding \$ 59,309.71**

\*Late fees accrue at 1.25% per month for the entire outstanding balance.