



STATE OF CONNECTICUT)	Order No. 2309
)	
VS.)	
)	
WHEELABRATOR LISBON, INC.)	
)	

CONSENT ORDER

A. With the agreement of Wheelabrator Lisbon, Inc. ("Respondent"), the Commissioner of Energy and Environmental Protection ("Commissioner") finds the following:

1. Respondent is a corporation doing business at 425 South Burnham Highway, Lisbon, Connecticut ("facility").
2. At the facility, Respondent owns and operates a resource recovery facility. Municipal Solid Waste ("MSW") and a small percentage of processed demolition wood ("PDW") is combusted to produce steam, which in turn is used to produce electricity. Therefore, this facility is subject to Section 22a-174-38 of the Regulations of Connecticut State Agencies ("RCSA").
3. The operation is subject to RCSA Section 22a-174-33, since the facility is a major source of nitrogen oxides ("NOx") and hazardous air pollutants ("HAP").
4. On June 13, 2002, Title V Permit #093-0020-TV was issued to the Respondent, which included the requirements of New Source Review ("NSR") Permit #093-0008 and NSR Permit #093-0009 for the two Municipal Solid Waste Combustors ("MWC") located at the facility. In May 2007, Title V Permit #093-0020-TV and the two NSR Permits were modified.
5. Pursuant to Table III.A.14.a.i of Title V Permit #093-0020-TV and Part IV of NSR Permit #093-0009, the permittee shall not cause or allow emissions of mercury in excess of 0.028 milligrams per dry standard cubic meter ("mg/dscm") of exhaust gas corrected to 7% oxygen, or achieve 85% reduction by weight measured by RCSA Section 221-174-38(c)(7), whichever is less stringent. Compliance with this emission limit shall be determined based on an annual performance test, performed as set forth by RCSA Section 22a-1784-38(c)(1).

Date Issued September 23, 2013

6. On August 25, 2011, a report review was conducted by an Air Pollution Control Engineer of the DEEP Bureau of Air Management. Based on that review, the Department determined that the Respondent exceeded the mercury emissions limitation for one of the MWC furnaces at the plant (MWC 2). For Tests conducted on May 10 and May 11, 2011, MWC 2's average mercury emissions were reported as 0.035 mg/dscm and the removal efficiency of 77.8%, with a carbon injection rate of 2 pounds per hour.
7. On September 1, 2011, NOV #16780 was issued to the Respondent for exceeding the mercury emissions limitations as documented by tests conducted on May 10 and May 11, 2011 as required by Title V Permit #093-0020-TV.
8. It was determined that on June 9 and 10, 2011, a mercury re-test was performed on MWC 2 and demonstrated compliance with the limits of the permits. Average mercury emissions were 0.0029 mg/dscm @ 7% O₂ for MWC 2, with a carbon injection rate of 3 pounds per hour.
9. On June 21, 2012, the Source Emissions Monitoring Group ("SEM") was informed by the Respondent that one of the MWCs may have exceeded the mercury emission limit during the performance testing conducted between May 8 and May 10, 2012.
10. On June 27, 2012, the Respondent submitted to the SEM Group a preliminary report that indicated that MWC 1 may have exceeded the emission limit for mercury emissions during the past May 2012 performance test.
11. On August 8, 2012, a report review was conducted by an Air Pollution Control Engineer of the DEEP Bureau of Air Management. Based on that review, the Department determined that the Respondent exceeded the mercury emissions limitation for one of the MWC furnaces at the plant (MWC 1). For tests conducted on May 9 and May 10, 2012, MWC 1's average mercury emissions were reported as 0.059 mg/dscm and the removal efficiency of 55%.
12. On August 24, 2012, NOV #16982 was issued to the Respondent for exceeding the mercury emissions limitation as documented by tests conducted on May 10 and May 11, 2012 as required by Title V Permit #093-0020-TV.
13. It was determined that on June 28 and 29, 2012, a mercury re-test was performed on MWC 1, which demonstrated compliance with the limits of the permits. Average mercury emissions were 0.002 mg/dscm @ 7% O₂ for MWC 2, with a carbon injection rate of 3 pounds per hour.
14. By virtue of above, the Respondent violated: NSR Permit #093-0009, NSR Permit #093-0008, Title V Permit #093-0020-TV, and RCSA Sections 22a-174-38 and 22a-174-3a(h).
15. The maximum allowable stack concentration of mercury was not exceeded during any of the performance testing that demonstrated exceedances of the mercury emissions limitation.

16. By agreeing to issuance of this consent order, Respondent makes no admission of fact or law with respect to the matter addressed herein, other than the facts asserted in paragraphs A.1 through A.4 inclusive.
 - B. With the agreement of the Respondent, the Commissioner, pursuant to Sections 22a-6, 22a-171, 22a-174, 22a-177, and 22a-178 of the Connecticut General Statutes, orders as follows:
 1. Supplemental Mercury Emissions Monitoring Schedule. The Respondent shall perform mercury emissions monitoring after air pollution control equipment for MWC1 and MWC2 using sorbent traps according to EPA Method 30B with both 24 hour and 7 day sampling times. The monitoring shall be performed according to the approved plan as described in Paragraph B.3 of this Consent Order. The monitoring periods shall be performed according to the following schedule:
 - a. Quarterly Monitoring shall be performed over a one year period. The first monitoring period shall be performed within the first calendar quarter following the issuance of this Consent Order. The second monitoring period shall be performed within the second calendar quarter after issuance, the third monitoring period shall be performed within the third quarter after issuance and the fourth monitoring period shall be performed within the fourth calendar quarter after issuance.
 - b. For the first two quarter monitoring periods, samples shall be taken for both MWC1 and MWC2 for the 24 hour and 7 day sampling times. If the average mercury results from all of the first two quarterly emissions monitoring samples are less than 0.025 milligrams per dry standard cubic meter (“mg/dscm”) corrected to 7% oxygen: then the Respondent may alternate monitoring between the two units, such that, during the 3rd quarterly period MWC1 shall be sampled for the 24 hr and 7 day sampling times, and then during the 4th quarterly period, MWC2 shall be sampled for the 24 hr and 7 day sampling times.
 - c. The Respondent shall make all efforts to expedite the processing of the samples collected pursuant to this Consent Order.
 2. All information derived from the Supplemental Mercury Emissions Monitoring pursuant to Paragraph B.1 of this Consent Order shall be used for information gathering and planning purposes only. For compliance purposes, Respondent shall perform all required testing pursuant to RCSA Section 22a-174-38 for MWC1 and MWC2.
 3. Emissions Monitoring. Except as otherwise provided in this consent order or by the Commissioner in writing, all mercury emission monitoring using sorbent traps for both MWC1 and MWC2 under this consent order shall be conducted and reported as follows: Within (30) days of the issuance of this Consent Order, Respondent shall submit to the Commissioner for review and approval an Intent To Test (“ITT”) protocol for the

monitoring required under Paragraph B.1 of this Consent Order. The Respondent may submit one protocol for all monitoring periods. The ITT protocol shall include at least:

- a. The Department's Bureau of Air Management Test Form No. 1, "Intent to Test";
 - b. A detailed description of all aspects of facility operations (e.g., type and quantity of raw materials utilized) and of any air pollutant control equipment in use (e.g., screen mesh size, control equipment efficiency) which may affect monitoring results, and how and when such information will be monitored;
 - c. A detailed description of each emissions monitoring methodology to be utilized, provided that all such methodologies shall conform to those approved by the U.S. Environmental Protection Agency and the commissioner; and
 - d. A description of each discharge point at which emissions monitoring is to be conducted.
4. The Respondent shall provide to the Commissioner any information that the Commissioner deems necessary to review the ITT protocol. The Respondent shall provide 30 day advance notification to the Commissioner of all emissions monitoring so as to allow the Commissioner the opportunity to be present during such monitoring and to independently verify relevant facility operations, air pollution control equipment parameters, and monitoring procedures. Within 45 days after completing any emissions monitoring required by this consent order, the Respondent shall submit to the Commissioner a written report providing the results of such monitoring within 15 days of a notice from the Commissioner indicating any deficiencies in such report, the Company shall submit a revised report.
5. Civil Penalty. On or before 30 days after the issuance of this Consent Order, the Respondent shall pay a penalty of \$9,350 as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraphs A.15 of this Consent Order.
6. Payment of penalties. Payment of penalties under this Consent Order shall be mailed or personally delivered to Bureau of Financial & Support Services--Accounts Receivable Office ["F&SS"], Department of Energy and Environmental Protection, 79 Elm Street, Hartford, CT 06106, 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, "Air Management Civil Penalty, Engineering and Enforcement Division, Consent Order No. 2309".
7. Supplemental Environmental Project (SEP)
- a. In addition to the penalty referenced in paragraph B.5 of this Consent Order, Respondent has agreed to provide funding to the Department's Statewide SEP Account for the purposes of funding the purchase and installation of electric automobile charging stations within Connecticut.

- b. Within thirty (30) days after the date of issuance of this Consent Order, the Respondent shall pay \$84,150 to the Statewide SEP Account for the purposes of funding the purchase and installation of electric automobile charging stations within Connecticut. The payment 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," with notation thereon "Statewide SEP Account" and "Consent Order No. 2309."
 - c. Respondent shall not claim or represent that any SEP payment made pursuant to this consent order constitutes an ordinary business expense or charitable contribution or any other type of tax deductible expense, and Respondent shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.
 - d. If and when Respondent disseminates any publicity, including but not limited to any press releases regarding funding a SEP, Respondent shall include a statement that such funding is in partial settlement of an enforcement action brought by the Commissioner.
8. 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.
9. Approvals. Respondent 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 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 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.
10. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
11. 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.

12. 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 §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."
13. 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.
14. False statements. Any false statement in any information submitted pursuant to this Consent Order is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
15. 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 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.
16. 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 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.

17. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondent of other obligations under applicable federal, state and local law.
18. 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.
19. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the facility without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.
20. 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.
21. Notice to Commissioner of changes. Within 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.
22. 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 Bureau of Air Management Unit 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.
23. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order, unless otherwise specified in this Consent Order or in writing by the Commissioner, shall be directed to:
Aileen Matta
Engineering and Enforcement Division
Bureau of Air Management
Department of Energy and Environmental Protection
79 Elm Street, 5th Floor
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 Respondent to the terms and conditions of the Consent Order.

Wheelabrator Lisbon, Inc.

Signature: John Horgan

Type Name: John Horgan

Type Title: Plant Manager

Date: 9/10/2013

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



Macky McCleary
Deputy Commissioner

9/20/13

Date

TOWN OF LISBON
LAND RECORDS

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