

STATE OF CONNECTICUT

V.

CENTRAL CONNECTICUT RECYCLING & TRANSFER, LLC

CONSENT ORDER # WSWDH 12007

Date Issued: July 24, 2012

- A. With the agreement of Central Connecticut Recycling & Transfer, LLC ("Respondent"), the Commissioner of Energy and Environmental Protection ("the Commissioner") finds:
1. Respondent is a Connecticut corporation, which is or has engaged in the business of storing and processing various solid wastes at a site located at 22 Burton Drive, Cheshire, Connecticut ("the site").
 2. Pursuant to Section 22a-208a of the Connecticut General Statutes ("CGS") and Section 22a-209-4 of the Regulations of Connecticut State Agencies ("RCSA"), the Department issued Permit To Construct and Operate No. 0250851-PCO to A.J. Waste Systems, LLC on December 28, 2007 ("the permit") to operate a solid waste facility ("the facility") at the site. The permit was transferred to the Respondent on December 28, 2007, and it is valid through December 28, 2012.
 3. Staff from the Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division ("WEED") visited the site on November 22, 2011 in response to a complaint relating to an electronic waste collection event organized by the Boys and Girls Club of Meriden that was held at 71 Chamberlain HWY in Meriden, Connecticut (Ragazzino Foods Parking Lot) on November 19, 2011 ("the e-waste collection event"). Based upon the site visit, and information obtained during the investigation of the complaint, the Department found that the Respondent failed to:
 - a. Operate the facility in accordance with all the terms and conditions of the permit. More specifically, condition C.2. of the permit prohibits the Permittee from accepting and/or processing at the facility any solid waste that has not been specifically authorized by the Commissioner. The Department found that on November 21, 2011 the facility processed, through its volume reduction plant, over 9 tons of waste televisions which were transported from the e-waste collection event held on November 19, 2011. The Commissioner has not authorized the Permittee to process televisions through the facility's volume reduction plant. Therefore, condition C.2. of the permit has been violated.

4. On January 30, 2012, WEED issued Notice of Violation No. WSWDH12013 to the Respondent to correct the violation corresponding to that cited in subparagraph A.3.a. of this consent order.
 5. Based on correspondence submitted to WEED on February 29, 2012 Respondent has corrected the violation corresponding to that listed in subparagraph A.3.a. of this consent order.
 6. By virtue of the above, the Respondent has violated condition C.2. of the permit.
- B. With the agreement of Respondent, the Commissioner, acting under Sections 22a-6, 22a-208, 22a-225, and 22a-226 of the CGS, orders Respondent as follows:
1. Compliance Assurance. Respondent shall maintain its compliance with all applicable provisions of Permit To Construct and Operate No. 0250851-PCO, including but not limited to those requirements identified in paragraph A.3. above. In particular:
 - a. Respondent has retained Fuss & O'Neill, Inc., a consultant acceptable to the Commissioner, to prepare the documents and implement or oversee the actions required by this consent order. Respondent shall retain one or more qualified consultants acceptable to the Commissioner until this consent order is fully complied with, and, within ten (10) days after retaining any consultant other than the one originally identified under this paragraph, Respondent shall notify the Commissioner in writing of the identity of such other consultant. Respondent shall submit to the Commissioner a description of the 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 a description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.
 - b. On or before **ninety (90)** days after issuance of this consent order, Respondent shall submit for the Commissioner's review and written approval, a plan detailing additional actions and/or operational changes it has undertaken or will undertake to ensure compliance with Connecticut's solid waste management regulations and Permit To Construct and Operate No. 0250851-PCO including, but not limited to, the requirement violated as set forth in paragraph A.3. of the consent order.
 - c. On or before **ninety (90)** days after issuance of this consent order, Respondent shall conduct a comprehensive recycling review of the facility to evaluate compliance with Connecticut's recycling laws set forth in CGS Section 22a-241b(d), and shall submit for the Commissioner's review and written approval a Business Recycling Profile documenting the management of recyclable materials at each facility. Refer to the enclosed Business Recycling Profile (**Attachment A**).
 2. Status of Notice of Violation (NOV) No. WSWDH12013. This consent order supersedes NOV No. WSWDH12013.
 3. 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.

4. Civil penalty. Respondent shall pay a penalty of **four thousand three hundred thirty dollars (\$4,330)** as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraph A.3. of this consent order. The penalty shall be paid in two separate installments as follows: Respondent shall make a payment of **two thousand one hundred sixty-five dollars (\$2,165)** each on October 1, 2012 and January 1, 2013.

5. Supplemental Environmental Project. In addition to the penalty referenced in paragraph B.4. above, Respondent has agreed to fund a supplemental environmental project ("SEP") or projects acceptable to the Department according to its February 15, 1996 "Policy on Supplemental Environmental Projects." Therefore, Respondent shall pay **four thousand three hundred thirty dollars (\$4,330)** to the Statewide SEP Account. The payments shall be made in two separate installments as follows: Respondent shall make a payment of **two thousand one hundred sixty-five dollars (\$2,165)** each on April 1, 2013 and July 1, 2013. Any payments under this paragraph 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, Connecticut 06106-5127, and shall be by certified or bank check payable to the "Treasurer, State of Connecticut," with notation thereon "Statewide SEP Account" and the consent order number identified on the first page of the Consent Order. A copy of the check and any transmittal letter shall also be sent to Ms. Julie Dutton, Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division at the same address.
 - a. 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.
 - b. 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.

6. 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 "Treasurer, State of Connecticut". 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 the Consent Order. A copy of the check and any transmittal letter shall also be sent to Ms. Julie Dutton in the Bureau of Materials Management and Compliance Assurance at the same address.

7. 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 Services 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.

8. 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 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.
9. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
10. 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.
11. 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 may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."
12. 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.
13. False statements. Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.

14. 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.
15. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties pursuant to this consent order, 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 not otherwise addressed by this consent order. 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.
16. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
17. 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 or prevent or abate pollution.
18. 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.
19. 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.
20. 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.
21. 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.

22. 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:

Mr. Paul Franson, Environmental Analyst 3
Bureau of Materials Management and Compliance Assurance
Waste Engineering and Enforcement Division
Department of Energy and Environmental Protection
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.

CENTRAL CONNECTICUT RECYCLING & TRANSFER, LLC

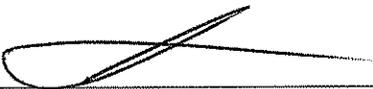
BY: Bonnie B. Wallinger

NAME: Bonnie B. Wallinger

TITLE: President

DATE: 7/2/12

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


Macky McCleary
Deputy Commissioner
Department of Energy and Environmental Protection

7/23/12
Date

Consent Order No. : WSWDH12007

Town of Cheshire Land Records