

**STATE OF CONNECTICUT
V.
HARTFORD SQUARE ASSOCIATES, LLC AND
SPRUCE BROOK LANDSCAPE CONTRACTORS, LLC**

CONSENT ORDER # COWSWDS12011

Date Issued: January 9, 2013

- A. The Commissioner of the Department of Energy & Environmental Protection ("the Commissioner") finds:
1. Hartford Square Associates, LLC ("Respondent Hartford Square Associates, LLC") is a limited liability corporation which owns a property located at 1 Hartford Square, New Britain, Connecticut, (the "site") and is more fully described in volume 1830 on page 539 in the City of New Britain land records.
 2. Spruce Brook Landscape Contractors, LLC ("Respondent Sprucebrook Landscape Contractors, LLC") is a limited liability corporation which leases the property from Respondent Hartford Square Associates, LLC.
 3. On March 14, 2012, staff from Department of Energy & Environmental Protection's ("DEEP") Bureau of Materials Management & Compliance Assurance inspected the site in response to a complaint. The inspection indicated that Respondent Hartford Square Associates, LLC and Respondent Spruce Brook Landscape Contractors, LLC (collectively the "Respondents") have built or established a solid waste facility and are operating the solid waste facility without the necessary license as required by law.
 4. On March 26, 2012, DEEP issued Notice of Violation No. WSWDS12039 to Respondent Spruce Brook Landscape Contractors, LLC and Notice of Violation No. WSWDS12040 to Respondent Hartford Square Associates, LLC for establishing and operating a solid waste facility without first obtaining the necessary permits. To date, the Respondents have failed to correct the violations cited by Notices.
 5. Respondents have not obtained a permit from the Commissioner under Connecticut General Statutes (CGS) §22a-208a for the operation of a solid waste facility at the site.

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6. By virtue of the above, Respondents have violated §22a-208a(b) and §22a-208c of the CGS, and §22a-209-4, §22a-209-7, §22a-209-8, §22a-209-9 and §22a-209-10 of the Regulations of Connecticut State Agencies (RCSA).

B. With the agreement of each Respondent, the Commissioner, acting under §22a-6, §22a-208 and §22a-225 of the CGS, orders Respondents as follows:

1. Upon issuance of this consent order, Respondents shall cease the acceptance of all solid waste at the site without first obtaining a permit issued by the Commissioner appropriate to the activities engaged in.
2. Respondents shall maintain their compliance with all requirements of Chapter 446d of the Connecticut solid waste management provisions and correct the violations cited in paragraphs A.3. and A.4. of this consent order in accordance with the following schedule:
 - a). On or before fourteen (14) days after issuance of this consent order, Respondents shall submit to the Commissioner the written identity of the licensed solid waste facility or facilities selected to be used for proper management of the solid waste, cited in paragraphs A.3. and A.4. of this consent order.
 - b). On or before twenty-one (21) days after issuance of this consent order, Respondents shall begin removing all accumulated solid waste, cited in paragraphs A.3) and A.4. of this consent order, to the previously identified solid waste facility pursuant to paragraph 2.a). of this consent order.
 - c). On or before two hundred ten (210) days after issuance of this consent order, Respondents shall complete the removal of all accumulated solid waste, cited in paragraph A.3 and A.4. of this consent order, to a licensed solid waste facility or facilities.
 - d). On or before two hundred forty (240) days after issuance of this consent order, Respondents shall submit a final report to the Commissioner's for his review and written approval. Such report shall include, but not necessarily be limited to: a narrative describing the actions taken by the Respondents to comply with this consent order; proof of proper disposal (i.e., weight tickets/receipts) from a licensed solid waste facility or facilities that the solid waste was delivered to; photographs that depict the site as being free from all accumulations of solid waste, cited in paragraph A.3) of this consent order; and, any other information demonstrating the Respondents compliance with this consent order.
3. Recycling Audit: Respondents shall conduct a comprehensive recycling review of their offices to evaluate compliance with Connecticut's recycling laws set forth in CGS §22a-241b(c).

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- a) On or before ninety (90) days after the issuance of this consent order, Respondents shall submit for the Commissioner's review and written approval a business recycling profile documenting the management of recyclable materials. An example profile is included as Attachment "A" to this consent order.
4. Progress reports: On or before the last day of each month following issuance of this consent order and continuing until all actions required by this consent order have been completed as approved and to the Commissioner's satisfaction, Respondents shall submit a progress report to the Commissioner describing the actions which Respondent has taken to date to comply with this consent order.
5. Status of Notice of Violation No. WSWDS12039. This consent order supersedes Notice of Violation No. WSWDS12039.
6. Status of Notice of Violation No. WSWDS12040. This consent order supersedes Notice of Violation No. WSWDS12040.
7. Full compliance. Respondents 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.
8. Civil penalty. Respondents shall pay a penalty of four thousand seven hundred seventy-two dollars (\$4,772.00) as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraphs A.3. and A.4. of this consent order. Payment shall be made in accordance with provisions of paragraph B.9. of this consent order. The penalty shall be paid in eight (8) separate installments due payable as follows:
 - a) The first installment of the penalty, in the amount of five hundred ninety-six dollars (\$596.00), shall be due and payable on or before fourteen (14) days after the date of issuance of this consent order.
 - b) The second installment of the penalty, in the amount of five hundred ninety-six dollars (\$596.00), shall be due and payable on or before on hundred eighty (180) days after the date of issuance of this consent order.
 - c) The third installment of the penalty, in the amount of five hundred ninety-six dollars (\$596.00), shall be due and payable on or before two hundred seventy (270) days after the date of issuance of this consent order.
 - d) The fourth installment of the penalty, in the amount of five hundred ninety-six dollars (\$596.00), shall be due and payable on or before three hundred sixty (360) days after the date of issuance of this consent order.

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- e) The fifth installment of the penalty, in the amount of five hundred ninety-six dollars (\$596.00), shall be due and payable on or before four hundred fifty (450) days after the date of issuance of this consent order.
 - f) The sixth installment of the penalty, in the amount of five hundred ninety-six dollars (\$596.00), shall be due and payable on or before five hundred forty (540) days after the date of issuance of this consent order.
 - g) The seventh installment of the penalty, in the amount of five hundred ninety-six dollars (\$596.00), shall be due and payable on or before six hundred thirty (630) days after the date of issuance of this consent order.
 - h) The eighth and last installment of the penalty, in the amount of five hundred ninety-six dollars (\$596.00), shall be due and payable on or before seven hundred twenty (720) days after the date of issuance of this consent order.
9. 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 & Compliance Assurance, Waste Engineering & Enforcement Division Civil Penalty", and include the consent order number as identified at the top of page one (1) of the consent order.
10. Approvals. Respondents 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 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 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.
11. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
12. 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.

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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.

13. 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 Respondents or, if Respondent is not an individual, by Respondents'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 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."

14. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
15. 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.
16. 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.
17. Notice of transfer; liability of Respondent. Until Respondents have fully complied with this consent order, Respondents 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. Respondents's obligations under this consent order shall not be affected by the passage of title to any property to any other person or municipality.

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18. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties, 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.
19. Respondent's obligations under law. Nothing in this consent order shall relieve Respondents of other obligations under applicable federal, state and local law.
20. 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 Respondents pursuant to this consent order will result in compliance or prevent or abate pollution.
21. 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.
22. 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.
23. 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, Respondents shall submit the correct or omitted information to the Commissioner.
24. Notification of noncompliance. In the event that Respondents 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, Respondents 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, 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 review and written approval of the Commissioner, dates by which compliance will be

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achieved, and Respondents shall comply with any dates which may be approved in writing by the Commissioner. Notification by 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.

25. 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:

Stan Gormley, Environmental Analyst-III
Department of Energy and Environmental Protection
Bureau of Materials Management & Compliance Assurance
Waste Engineering & Enforcement Division
79 Elm Street
Hartford, Connecticut 06106-5127

26. Joint and several liability. Respondents shall be jointly and severally liable for compliance with this consent order.

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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 Respondent to the terms and conditions of the consent order.

Hartford Square Associates, LLC

BY: 
Peter Niro, Manager

12/21/12
Date

Spruce Brook Landscape Contractors, LLC

BY: 
Peter Niro, Member

12/21/12
Date

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


Macky McCleary
Deputy Commissioner

1/9/13
Date

Enclosure

cc: Peter J. Denuzze, Town Clerk, 27 West Main Street #109, New Britain, CT 06051