

STATE OF CONNECTICUT

V.

MJ SAUCHUK, INC.

CONSENT ORDER No. WSWDS14005

Date Issued: September 23, 2014

- A. With the agreement of MJ Sauchuk, Inc., (“Respondent”), the Commissioner of Energy and Environmental Protection (“the Commissioner”) finds:
1. Respondent is the permittee of a Limited Processing Recycling Facility located at 20 Lorenz Industrial Parkway, Ledyard, Connecticut, (“the site”) shown on map 125, block 1380 in the Ledyard Tax Assessor’s Office.
 2. The Sauchuk Real Estate Holdings, LLC is listed as the owner of the site identified in the above paragraph in the Ledyard Tax Assessor’s Office.
 3. On October 4, 2010, General Permit Number 072-275 (“General Permit”) was issued to operate a Limited Processing Recycling Facility, specifically for paper; glass food containers; drink boxes and paper beverage containers; plastic containers; metal food containers; scrap metal; and untreated clean wood. The General Permit is due to expire on August 15, 2015.
 4. On November 18, 2013, the Department of Energy and Environmental Protection, Waste Engineering and Enforcement Division, (“the Department”) received a complaint alleging that the Respondent was conducting tipping and processing activities outside and not inside of an enclosed structure as required by the General Permit.
 5. On November 25, 2013, the Department inspected the site and found the following violations:
 - i. Failed to post the proper signage at the entrance to the site that states, at a minimum, the name of the permittee, the registration number, the hours of operation, and the authorized users as required by Regulations of Connecticut State Agencies (RCSA) § 22a-209-4(e) and General Permit § 5(a)(10)(A).
 - ii. Failed to handle recyclable solid waste in such a manner as to prevent contamination or degradation that could render it unmarketable as required by RCSA § 22a-209-4(e) and General Permit § 5(a)(2).
 - iii. Failed to accept only solid waste authorized by the General Permit as required by RCSA § 22a-209-4(e) and General Permit § 5(c)(2)(A). Specifically, Respondent

accepted mattresses, construction and demolition debris, as well as municipal solid waste at the site.

- iv. Failed to ensure that a copy of the General Permit, the Operations and Management Plan and the professional engineer certified site plan is made available at the facility as required by RCSA §§ 22a-209-4(b)(2), 22a-209-4(b)(2)(B) and 22a-209-4(e), and General Permit § 5(a)(14).
 - v. Failed to place and store scrap metal in a covered container by the end of each working day as required by RCSA § 22a-209-4(e), and General Permit §§ 5(a)(2) and 5(b)(3)(A).
 - vi. Failed to maintain daily records and prepare monthly summaries of the type and quantity of solid waste received as required by Connecticut General Statutes (CGS) §§ 22a-208e and 22a-220, RCSA § 22a-209-4(e), and General Permit § 5(a)(15). Specifically, failed to report quarterly reports for 4th quarter of 2011; all of 2012; and 1st, 2nd, and 3rd quarters of 2013.
 - vii. Failed to conduct all tipping and processing inside a totally enclosed structure with a roof as required by RCSA § 22a-209-4(e) and General Permit § 5(c)(2)(F).
 - viii. Failed to accept only the permitted categories of recyclable solid waste at the facility as required by RCSA § 22a-209-4(e), and General Permit §§ 5(c)(2)(A) and 5(c)(2)(B). Specifically, Respondent accepted non-recyclable solid waste including municipal solid waste and construction and demolition debris at the facility.
 - ix. Established and operated a solid waste transfer station without a Permit to Operate as required by CGS §§ 22a-208a(b), 22a-208c and RCSA § 22a-209-4. Specifically, the facility was storing roll-off containers of construction and demolition debris.
6. On February 21, 2014, the Department issued Notice of Violation No. WSWDS14008 to Respondent requiring correction of the violations listed in paragraph A.5. of this Consent Order.
 7. On March 28, 2014, the Department received a submittal from the Respondent containing a partial response to the Notice of Violation No. WSWDS14008. On June 12, 2014, the Department reviewed the submittal and sent a letter to the Respondent requesting further information.
 8. On May 29, 2014, the Department issued a Notice of Non-Compliance to the Respondent based on several complaints that the Department received alleging that the Respondent was tipping source separated recyclables with municipal solid waste into the same route truck during curbside collection. To date, the Department has not received a response to the Notice of Non-Compliance.
 9. By virtue of the above, Respondent has violated Connecticut General Statute ("CGS") §§ 22a-208a and 22a-208c, RCSA §§ 22a-209-4 and 22a-209-9, and the General Permit.

- B. With the agreement of Respondent, the Commissioner, acting under § 22a-6, 22a-208, and 22a-225 of the Connecticut General Statutes, orders Respondent as follows:
1. Respondent shall bring all violations identified in paragraph A.5. above into compliance and maintain its compliance with all applicable provisions of CGS §§ 22a-208a, 22a-241b, and 52-91, and RCSA §§ 22a-209-1 and 22a-209-17, as well as the General Permit.
 2. Compliance with General Permit. Respondent shall complete the following:
 - a) Obtain Contract. On or before **thirty (30) days** after the date of issuance of this Consent Order, obtain a bona fide contract with a building construction company for the building of an enclosure for the tipping and processing of recyclables at the site, as required to meet the requirements of the General Permit.
 - b) Commence Construction. On or before **ninety (90) days** after the date of issuance of this Consent Order, commence construction of the enclosure.
 - c) Complete Construction. On or before **one hundred and fifty (150) days** after the date of issuance of this Consent Order, complete construction of the enclosure.
 - d) Provide Documentation. On or before **one hundred and eighty days (180)** after the date of issuance of this Consent Order, Respondent shall submit to the Commissioner a written certification that the enclosure has been constructed and is being utilized in accordance with the General Permit.
 3. Other Requirements. Additionally, Respondent shall perform all actions which it failed to perform as specified in paragraph A.5. and A.8. of the Consent Order, and provide a written certification to the Commissioner that includes a detailed description of all such corrective actions and supporting documentation demonstrating that the violations have been corrected.
 4. Future Compliance. On or before **ninety (90) days** after the date of issuance of this Consent Order, Respondent shall submit to the Commissioner, for his review and written approval, a plan which details the actions and/or operational changes to ensure future compliance with the Solid Waste Regulations, RCSA § 22a-209, et. seq., including or not limited to those set forth in paragraph A. 5 of this Consent Order. Within five (5) days after the Commissioner approves such plan, Respondent shall carry out the plan and maintain it in full effect thereafter.
 5. Future Recycling Plan: On or before **ninety (90) days** after the date of issuance of this Consent Order, Respondent shall conduct a comprehensive recycling review of Respondent's office location to evaluate compliance with Connecticut's recycling laws set forth in CGS § 22a-241b(c). Respondent 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.

6. Progress reports. On or before the last day of March, June, September, and December of each year 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, Respondent shall submit a progress report to the Commissioner describing the actions which Respondent have taken to date to comply with this Consent Order.
7. Status of Notice of Violation No. WSWDS14008. This Consent Order supersedes Notice of Violation No. WSWDS14008.
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 satisfaction of the Commissioner.
9. Civil penalty. Respondent shall pay a penalty of twenty thousand dollars (**\$20,000**) as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraph A.5. of this Consent Order. The penalty shall be paid in **four (4)** equal installments due payable as follows:
 - a. The first installment of the penalty shall be in the amount of five thousand dollars (**\$5,000**) shall be due and payable on or before **thirty (30) days** after the date of issuance of this Consent Order.
 - b. The second installment of the penalty shall be in the amount of five thousand dollars (**\$5,000**) shall be due and payable on or before **one hundred and thirty (130) days** after the date of issuance of this Consent Order.
 - c. The third installment of the penalty shall be in the amount of five thousand dollars (**\$5,000**) shall be due and payable on or before **two hundred and forty (240) days** after the date of issuance of this Consent Order.
 - d. The fourth installment of the penalty shall be in the amount of five thousand dollars (**\$5,000**) shall be due and payable on or before **three hundred and fifty (350) days** after the date of issuance of this Consent Order.
10. Payment of penalties. Payment of the penalties under this Consent Order shall be mailed or personally delivered to 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 "Connecticut Department of Energy and Environmental Protection". The check shall state on its face, "Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division Civil Penalty, and the consent number identified on the first page of this 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.
11. 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 purpose to this Consent Order. Nothing in this paragraph shall excuse noncompliance or delay.

12. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
13. 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.
14. 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 Section 53a-157b of the Connecticut General Statutes and any other applicable law."

15. Noncompliance. This Consent Order is a final order of the Commissioner with respect to the matters addressed herein, and is non-appealable 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 and others. Until Respondent has fully complied with this Consent Order, Respondent shall notify the Commissioner in writing no later than fifteen days after transferring all or any portion of the operations which are the subject of this Consent Order, the site or the business, or 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.
18. 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 violations of law, including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this Consent Order have not fully characterized the extent and degree of pollution or have not 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 pollution.
19. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondent 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 Respondent 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 shall neither create nor affect any rights of persons who or municipalities which 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, Respondent shall submit the correct or omitted information to the Commissioner.
24. 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

25. 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.
26. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order shall, unless otherwise specified in writing by the Commissioner, be directed to:

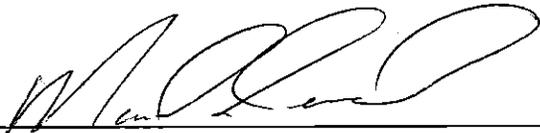
Darlene Sage, environmental Analyst II
Department of Energy and Environmental Protection
Bureau of Materials Management and Compliance Assurance
Waste Engineering and Enforcement Division
79 Elm Street
Hartford, Connecticut 06106-5127

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Respondent consents to the issuance of this Consent Order without further notice. The undersigned certifies that he is fully authorized to enter into this Consent Order and to legally bind the Respondent to the terms and conditions of the Consent Order.

MJ SAUCHUK, INC.

BY:



Signature
MARK SAUCHUK Pres.

Type/ Print Name and Title
Sept 15-14

Date

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



Macky McCleary
Deputy Commissioner

9/22/14

Date

CONSENT ORDER No. COWSWDS 14005
Sent Via Electronic Certified Mail