



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OF CONNECTICUT)

VS.)

ORDER NO. 8073)

CITY OF NEW HAVEN)

CONSENT ORDER

A. The Commissioner of Environmental Protection ("Commissioner") finds the following:

1. City of New Haven ("Respondent") is a municipality which owns property located at the corner of Stiles Street and Alabama Street more fully described as Lot 7, Block 953 on Map 66 ("site one"), property located on the south side of Alabama Street more fully described as Lot 1.05, Block 951 on Map 66 ("site two"), property located on the north east corner of Albia Street and Stiles Street ("site three") and Alabama Street ("site four") in New Haven, Connecticut.
2. The Environmental Protection Agency ("EPA") has designated the city of New Haven as nonattainment with respect to the National Ambient Air Quality Standards ("NAAQS") for particulate matter with a nominal diameter of ten microns or less ("PM10").
3. The Commissioner, in accordance with the Clean Air Act Amendments of 1990, is developing a plan which reduces emissions of particulate matter to bring the city of New Haven into attainment with the NAAQS for PM10.
4. At site one, site two, site three and site four ("sites"), Respondent has permitted materials to be handled, transported or stored without taking reasonable precautions to prevent particulate matter from becoming airborne and has permitted the discharge of visible emissions beyond the lot line of the sites.
5. The Commissioner has determined that Respondent must reduce fugitive emissions at the facility to bring the nonattainment area into attainment with the NAAQS for PM10.
6. By virtue of the above, Respondent has violated Sections 22a-174-18(b)(1) and 22a-174-18(b)(3) of the Regulations of Connecticut State Agencies ("Regulations").

B. With the agreement of Respondent, the Commissioner, acting under Sections 22a-6, 22a-171, 22a-174, 22a-177 and 22a-178 of the Connecticut General Statutes, orders Respondent as follows:

Respondent's initials: Jed

Date: 6/27/93

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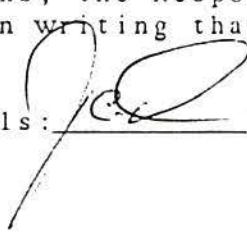
165 Capitol Avenue • Hartford, CT 06106

An Equal Opportunity Employer

1. On or before one (1) month after the date of issuance of this Consent Order, Respondent shall submit for the Commissioner's review and written approval a comprehensive and thorough written plan which identifies the remedial actions which Respondent will take to prevent particulate matter from being airborne and to ensure no fugitive discharges of visible emissions beyond Respondent's legal property boundaries will occur. The remedial action in such plan shall designate all land within the sites as vehicle travel, parking or fenced vegetated areas. Such plan shall include requirements for:
- a. properly grading and paving all areas that will be open to vehicle travel and parking;
 - b. fencing in with permanent barriers, such as guard rails, all areas that will not be open to vehicle travel and parking;
 - c. planting all areas included within such permanent barriers with vegetation suitable to the soil and climate;
 - d. constructing wind barriers of no greater than 50% porosity to surround all piles of stored raw and or product materials up to the pile height and as long as pile base; and
 - e. installing and operating a wet suppression system for all piles of stored raw and or product materials.

The plan shall include an implementation and maintenance schedule for all remedial actions proposed by the Respondent in this Consent Order and shall evaluate any other alternative specified by the Commissioner. The plan also shall include a schedule for applying for and obtaining all approvals required for such remedial actions. The schedule shall provide for completion of all remedial actions as soon as possible, but in no event later than three (3) months from the approval of the plan by the Commissioner.

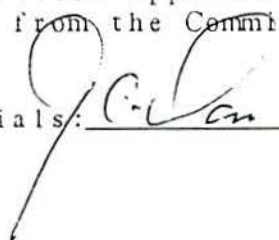
2. Respondent shall perform the approved plan in accordance with the approved schedule. Within fifteen days after completing all such actions, the Respondent shall certify to the Commissioner in writing that the actions have been completed as approved.

Respondent's initials: 

Date: 6/21/93

3. On or before seven (7) months after the date of issuance of this Consent Order, the Respondent shall submit for the Commissioner's review and written approval a scope of study for testing to quantify surface dirt loading and silt content at the sites and outside the legal property boundaries of the sites to verify attainment with the NAAQS for PM10 ("scope of study"). The scope of study shall include but need not be limited to, testing surface dirt loading and silt content and subsequent laboratory analysis. Such scope of study shall include the following:
- a. a detailed plan describing procedures for sampling and laboratory analysis of surface materials in accordance with United States Environmental Protection Agency document, Control of Open Fugitive Dust Sources Appendix D & E, September 1988 (EPA-450/3-88-008);
 - b. the locations where Respondent will conduct sampling of surface dirt loading and silt content;
 - c. a detailed plot plan of the sites, including the location of legal property boundaries; and
 - d. a detailed schedule to perform the testing.
4. Respondent shall perform the approved testing program in accordance with the approved scope of study. In no event shall such testing commence later than three (3) months after the Commissioner's approval of the scope of study. Respondent shall schedule such testing so as to allow representatives of the Department to be present during such testing, and shall allow such representatives to conduct procedural and operational audits. Within one (1) month after completing the testing, Respondent shall submit to the Commissioner for his review and written approval, a report of the results of such testing and all documentation necessary to verify said results.
5. If the approved remedial actions do not result in the prevention and abatement of air pollution and/or attainment of the PM10 standard to the satisfaction of the Commissioner, additional remedial actions and measures for testing and reporting on the effectiveness of those actions shall be performed in accordance with a supplemental plan and schedule approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted for the Commissioner's review and written approval on or before thirty (30) days after notice from the Commissioner that they are required.

Respondent's initials:



Date:

6/21/87

6. Progress reports. On or by the tenth day of March, June, September and December following issuance of this Consent Order, and continuing until all actions required by this Consent Order have been completed as approved and to the satisfaction of the Commissioner, Respondent shall submit progress reports describing the actions which the Respondent has taken to comply to date with this Consent Order.
7. Full compliance. Respondent shall not be considered in full compliance with this Consent Order until all actions required by the order have been completed as approved and to the satisfaction of the Commissioner, and all air pollution emanating from Respondent's property and its sources have been abated to the satisfaction of the Commissioner.
8. Stipulated future penalties.
- a. If, within 3 years after the date of issuance of this Consent Order, Respondent fails to comply with any requirement of this Consent Order or of any document approved hereunder, or fails to comply on time with any such requirement, Respondent shall pay the following civil penalties:
- For each of the first ten days following the date compliance was required, two thousand dollars (\$2,000);
- For each of the next ten days thereafter, five thousand dollars (\$5,000);
- For each day thereafter, the sum to be paid shall increase by two thousand dollars (\$2,000) until the maximum civil penalty specified in the general statutes as amended is reached, which sum shall be paid every day thereafter until compliance is achieved.
- b. Payment of the amounts specified in subparagraph (a) of this paragraph shall be submitted to the Commissioner within thirty days of the date that Respondent became aware or should reasonably have become aware of such violation. Failure to pay such penalties within thirty days shall not result in additional penalties under subparagraph (a) of this paragraph, provided that Respondent shall pay interest at a rate of one and two-thirds per cent per month or part thereof on any penalty which is not paid when due, beginning on the first day on which the penalty was past due.

Respondent's initials: C. E.Date: 6/21/67

specified by the Commissioner or, if no time is specified by the Commissioner, within thirty 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 an agent of the Commissioner.
12. Dates. 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 personally delivered or the date three days after it is mailed by the Commissioner, 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 legal holiday shall be submitted or performed on or before the following day which is not a Saturday, Sunday or legal holiday.
13. 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 the Commissioner 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. In so notifying the Commissioner, Respondent shall state in writing 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.

Respondent's initials: J.C.E.

Date: 6/21/97

18. Commissioner's powers. Nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding 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 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 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. 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:

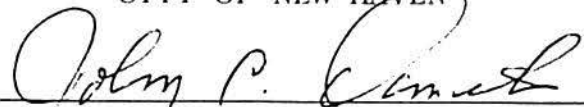
Elizabeth I. Hotaling
Department of Environmental Protection
Bureau of Air Management
165 Capitol Avenue
Hartford, Connecticut 06106

Respondent's initials: J.C.P.

Date: 6/21/93

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.

CITY OF NEW HAVEN

BY: 
 print: John C. Daniels
 title: Mayor
 date: June 21, 1993

Issued as a final order of the Commissioner of Environmental Protection on Sept 24, 1993.


 Timothy R.E. Keeney
 Commissioner

TK/EH

MAILED CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

Certified Document No. 058 266 272