



STATE OF CONNECTICUT :

V. :

CITY OF WATERBURY :

Date of Issuance: November 9, 2017

CONSENT ORDER

COWRMU17003

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

1. The City of Waterbury ("the Respondent") owns and operates a sanitary sewerage system, including the Waterbury Water Pollution Control Facility (the "facility"), and discharges treated sanitary sewage to the Naugatuck River under the terms and conditions of NPDES Permit No. CT0100625 ("the permit").
2. The Respondent maintains a sewerage system, which includes sewers that convey both storm water and sanitary sewage ("combined sewers") to the Waterbury Water Pollution Control Facility. Under normal conditions the facility handles all sanitary and combined sewer flows.
3. According to information provided by the Respondent to the Commissioner, on Monday, October 9, 2017, at approximately 5:00 pm, raw sewage began to flow from a manhole at the facility due to an electrical equipment failure. Said failure was allegedly caused by a subcontractor working for the private incinerator operator on site that cut a live wire sending a surge back to the main switch gear and generator building resulting in a power loss to the entire facility.
4. According to information provided by the Respondent to the Commissioner, despite efforts to restore power, in order to prevent sewage from flooding the facility, the plant bypass valve was opened causing 5 million gallons of untreated raw sewage to bypass the plant and flow directly into the Naugatuck River
5. The Respondent called the Department of Energy and Environmental Protection ("DEEP") DEEP Emergency Response Unit as required by Section 8(C) of the permit at 6:30pm on October 9, 2017, and was assigned Case No. 2017-05213.

6. The Respondent failed to notify the State Department of Public Health as required by Section 8(C) of the permit. The Respondent notified both the City of Waterbury Department of Health and the Naugatuck Health District, in accordance with DEEP's request to do so.
7. Although the online electronic bypass reporting system maintained by the Commissioner was available, the Respondent did not use the system for the initial 2-hour reporting because the plant electrical system was not operational.
8. A written bypass report was submitted to the Commissioner within five (5) days as required by Section 8(C) of the permit.
9. The Commissioner inspected a fish kill downstream of the bypass and observed a large number of dead fish in the Naugatuck River on October 11, 2017 and October 13, 2017.
10. The discharge caused an acute toxicity event beyond the allocated Zone of Influence (ZOI) resulting in a large fish kill in violation of Section 4(F) of the permit.
11. During the inspections by the Commissioner on October 11, 2017 and October 13, 2017, raw sewerage, debris, and flushables were observed in the river and along its banks downstream of the facility.
12. The wastewater treatment system was bypassed in violation of Section 4(E) of the permit which states: "No discharge shall contain or cause in the receiving stream a visible oil sheen, floating solids, visible discoloration, or foaming."
13. By virtue of the above, the pollution of the waters of the state occurred in violation of §22a-427 and §22a-430 of the Connecticut General Statutes.

B. With the agreement of The City of Waterbury, the Commissioner, acting under §22a-6, §22a-424, §22a-425, §22a-428, §22a-430, and §22a-431 of the Connecticut General Statutes, orders the Respondent as follows:

1. a. i. The Respondent shall continue removal and retain services for the removal of any debris from the incident in the water and along the banks of the Naugatuck River from the bypass discharge location to at least the confluence with Beacon Hill Brook.
- ii. On or before November 15, 2017, the Respondent shall certify to the Commissioner in writing that the actions in paragraph a. i. have been completed and provide written details of actions performed.
- iii. Between December 1, 2017 and December 15, 2017, the Respondent shall document via photographs and video the river conditions and if observed, remove any trash, litter, debris, or refuse etc. from the waters and the banks of the Naugatuck River

extending from the bypass discharge location to at least the confluence with Beacon Hill Brook.

- iv. Within fifteen days after completing the actions in paragraph a. iii., the Respondent shall certify to the Commissioner in writing that the actions have been completed.
- b. The Respondent shall continue to monitor the Naugatuck River water quality at the bypass discharge location, upstream of the bypass discharge location and downstream of the bypass discharge location, as directed by the Commissioner, until the Naugatuck River bacteria results return to normal ranges. Test results shall be submitted to the Commissioner within twenty-four (24) hours of receipt.
- c. On or before December 1, 2017, the Respondent shall submit a report of findings of the facility incident with recommendations to prevent such an incident from occurring again.
 - i. Such report shall include but not be limited to recommendations and an evaluation of means of isolating and protecting the integrity of the facility's emergency power system, and a schedule for implementing the recommendations.
 - ii. A draft of the report shall be submitted to the Commissioner for review and comment.
 - iii. The Respondent shall incorporate all comments from the Commissioner or his designee into the final report and certify that the report's recommendations have been implemented in accordance with the schedule included.
- d. The Respondent shall:
 - i. Secure the following number, type and size of fish for restocking of the Naugatuck River from a private hatchery:
 - 500 adult trout (Brooks, Browns and Rainbows – split evenly) 10-12" in length
 - 1,000 large adult trout (Browns and Rainbows) greater than 12" in length
 - ii. Obtain a Liberation (Stocking) Permit from the DEEP Bureau of Natural Resources, Fisheries Division. The application is available at: www.ct.gov/deep/fishinglicense.
 - iii. Between April 21, 2018 and April 28, 2018, the Respondent shall stock, or cause to be stocked, the above fish evenly distributed between 16 stocking locations to be determined by the Commissioner.
 - iv. Within fifteen days after completing such actions, the Respondent shall certify to the Commissioner in writing that the actions have been completed as approved.
- e. On or before May 12, 2018, the Respondent shall, in coordination with the Fisheries Division of the CT DEEP, sponsor a family fishing day along the Naugatuck River.

f. On or before December 31, 2017, the Respondent shall develop and submit an Emergency Response Plan. The Emergency Response Plan shall be designed to ensure that, should a bypass event occur in the collection system or at the wastewater treatment plant, or if any loss of treatment resulting in adverse water quality impacts to the receiving stream occurs, the impact of the discharge on the environment and public health will be minimized; and that the public, officials and river users will be notified. The Emergency Response Plan shall result in all bypasses being responded to and halted as rapidly as possible, mitigation being employed whenever appropriate, and identification and implementation of appropriate measures occurs to prevent bypass recurrence. The Emergency Response Plan shall provide procedures for responding to and for minimizing the environmental impact and potential human health risk of the bypasses. The Emergency Response Plan shall include, but is not limited to, the following:

- i. An emergency 24-hour telephone number that can be used by the public to report bypasses;
- ii. Procedures to publicize on the Respondent's website, in newspapers, and other methods of public communication that all bypasses should be reported to the emergency 24-hour telephone number;
- iii. Procedures to provide initial notice within two hours of the Respondent learning of a bypass, including the following:
 - (A) The Respondent shall use the Connecticut Sewage Right-to-Know online reporting system
http://www.ct.gov/deep/cwp/view.asp?a=2719&Q=578824&deepNav_GID=1654;
 - (B) If the online reporting system is not functional and the bypass occurs during normal working hours (8:30 a.m. to 4:30 p.m. Monday through Friday), initial notification shall be performed via telephone to the following entities:
 - (1) CT DEEP, Bureau of Water Protection and Land Reuse, Water Planning & Management Division, Municipal Wastewater Section at (860) 424-3704;
 - (2) The Department of Public Health Water Supply Section at (860) 509-7333;
 - (3) If the bypass occurs from April 1 through September 30, the Department of Public Health, Recreation Section at (860) 509-7297;
 - (4) The local health department or regional health district; and
 - (5) The Chief Elected Official of any potentially affected downstream community from the point of bypass to at least the confluence with the Housatonic River.
 - (C) If the online reporting system is not functional and the bypass occurs outside normal working hours, initial notification shall be performed via telephone to the following entities:

- (1) CT DEEP, Emergency Response Unit at (860) 424-3338;
 - (2) The Department of Public Health at (860) 509-8000; and
 - (3) The local health department or regional health district;
 - (D) In all instances, notification to the CT DEEP Municipal Wastewater Section, the Department of Public Health, and local health department or regional health district must occur during normal business hours on the day of a bypass or any loss of treatment resulting in adverse water quality to the receiving stream, or immediately on the next business day if the event occurs outside of normal business hours.
- iv. Procedures to make the public aware of and to limit public access to, and contact with, the waters and adjacent areas affected by the bypass;
 - v. Procedures to ensure the rapid dispatch of personnel and equipment necessary to correct or repair the condition causing or contributing to any bypass or loss of treatment such that it is contained, and stopped in a timely manner;
 - vi. Procedures for mitigating the impacts of the bypass on human health and the environment;
 - vii. Procedures for providing information to residents, following a building/private property backup resulting from conditions in the collection system, on local contractors who provide basement cleaning services and on the process for submitting claims for damages to the Respondent;
 - viii. Procedures to provide a written report within five days of the Respondent learning of a bypass as required in Section 8(C) of the permit via the Connecticut Sewage Right-to-Know online reporting system;
 - ix. Procedures to ensure the preparedness, including responsiveness training of the Respondent's employees and contractors necessary for the effective implementation of the Emergency Response Plan;
 - x. Periodic reviews to ensure that the Respondent has available staff and equipment necessary to respond and implement the Emergency Response Plan;
 - xi. Provisions for safety training for all personnel;
 - xii. Procedures for investigating and documenting the causes of bypasses and measures to prevent such bypasses.

The Emergency Response Plan shall be submitted to the Commissioner for review and comment. The Respondent shall incorporate any comments provided by CT DEEP into the Emergency Response Plan. The Respondent shall immediately and continuously implement the Emergency Response Plan.

2. Full compliance. The 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.

3. Approvals. The 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 the Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and the 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.
4. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
5. 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.
6. 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 a principal executive officer or ranking elected official or duly authorized representative of such person, 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."

7. **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 the Respondent to an injunction and penalties under Chapters 439, and 445 or 446k of the Connecticut General Statutes.
8. **False statements.** Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under §22a-438 or 22a-131a of the Connecticut General Statutes or, in accordance with §22a-6, under Section 53a-157 of the Connecticut General Statutes and any other applicable law.
9. **Notice of transfer; liability of the Respondent and others.** Until the Respondent has fully complied with this consent order, the 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. The Respondent's obligations under this consent order shall not be affected by the passage of title to any property to any other person or Respondent.
10. **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, 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 the 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.
11. **The Respondent's obligations under law.** Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
12. **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.
13. **Access to site.** Any representative of the Department of Energy and Environmental Protection may enter the Waterbury Water Pollution Control Facility without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.

14. 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.
15. 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.
16. 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.
17. 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:

Ann Straut, Sanitary Engineer 3
Department of Energy and Environmental Protection
Water Protection and Land Reuse
Water Planning and Management Division
79 Elm Street
Hartford, Connecticut 06106-5127

The Respondent consents to the issuance of this consent order without further notice.

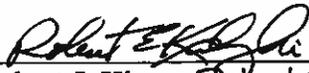
"The undersigned certifies that he is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order."

The City of Waterbury

BY: 
Neil O'Leary
Mayor, City of Waterbury

Date 11/3/17

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


for Robert J. Klee Robert E. Kalszewski
Commissioner Deputy Commissioner

Date 11/9/17

