

V/MC



STATE OF CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OF CONNECTICUT :
V. :
TOWN OF CLINTON :

CONSENT ORDER D.G.

WC 5238
027-001
m
10-10-97

A. With the agreement of the Town of Clinton ("the Municipality"), the Commissioner of Environmental Protection ("the Commissioner") finds:

1. The Town of Clinton ("the Municipality") is currently bound by the requirements of the Commissioner's pollution abatement Order No. WC-3611, entered on November 3, 1983 and last modified on October 20, 1989.
2. A Wastewater Facilities Plan prepared for the Town of Clinton by the consulting firm of Fuss & O'Neill was submitted for the Commissioner's review and approval in accordance with the requirements of Step A of Order No. WC-3611. This plan identified specific areas within the boundaries of Clinton which could not support onsite wastewater treatment and required conveyance of the wastewater to an offsite facility for treatment and disposal.
3. Supplemental surface and groundwater sampling conducted by the Clinton Water Pollution Control Commission in March 1995, June 1995, October 1995, December 1995, March 1996, and September 1996 and submitted to the Commissioner have identified additional areas where bacteria, nitrate, and ammonia levels have indicated a potential community pollution problem and the need for offsite wastewater treatment should be investigated.
4. The Town of Clinton has not implemented any structural solutions to address the wastewater disposal issues identified in the Fuss & O'Neill report.
5. By virtue of the above, a community pollution problem exists and pollution by the Municipality can reasonably be anticipated in the future.
6. On July 22, 1997, the Commissioner issued Order No. WC-5227 to the Municipality which required the Municipality to, among other things:
 - a. Select a qualified consultant
 - b. Develop a scope of services
 - c. Prepare an engineering report
 - d. Prepare plans and specifications, and
 - e. Perform the remedial actions
7. The Municipality requested a hearing on Order No. WC-5227 within thirty days of the issuance of the order, and this consent order fully resolves that appeal.

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B. With the agreement of the Municipality, the Commissioner, acting under Sections 22a-6, 22a-424, 22a-427, 22a-428, 22a-430, and 22a-431 of the Connecticut General Statutes, orders the Municipality as follows:

1. a. On or before October 22, 1997, the Municipality shall select one or more qualified consultants acceptable to the Commissioner to prepare the documents and implement or oversee the actions required by this order and shall, by that date, notify the Commissioner in writing of the identity of such consultants. The Municipality shall retain one or more qualified consultants acceptable to the Commissioner until this order is fully complied with, and, within ten days after retaining any consultant other than one originally identified under this paragraph, the Municipality shall notify the Commissioner in writing of the identity of such other consultant. The consultant(s) retained shall be a qualified professional engineer licensed to practice in Connecticut and shall be acceptable to the Commissioner. The Municipality shall submit to the Commissioner a description of a consultant's education, experience and training which is relevant to the work required by this order within ten 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 thirty (30) days following the action described in the preceding paragraph, the Municipality shall submit for the Commissioner's review and written approval a scope of study for an investigation of the conditions and violations described in paragraphs 2, 3, and 5 above and their causes, and for an evaluation of alternative remedial action to correct all such violations and conditions. Upon approval by the Commissioner of the scope of services, the Municipality shall execute a contract with the selected consultant to perform the tasks specified in the scope of services.

c. If the investigation carried out under an approved scope of study does not fully evaluate the conditions and violations described above or fully determine an appropriate remedial action alternative to the satisfaction of the Commissioner, additional investigation and evaluation 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 days after notice from the Commissioner that they are required.

d. On or before two hundred and seventy (270) days after approval of the scope of services described in paragraph b, the Municipality shall submit to the Commissioner for his review and written approval a comprehensive and thorough engineering report developed in accordance with the approved scope of study which describes in detail the investigation performed; evaluates the alternatives for remedial actions; states in detail the most expeditious schedule for performing each alternative, and lists all permits and approvals required for each alternative, including but not limited to any permits or certifications required under sections 22a-32, 22a-42a, 22a-342, 22a-361, 22a-368, 22a-430 or 25-68 of the Connecticut General Statutes; proposes a preferred alternative with supporting justification therefor; and proposes a detailed program and schedule

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step 02 04)
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to carry out the preferred remedial actions, including but not limited to a schedule for applying for and obtaining all permits and approvals required for such remedial actions. The schedule shall provide for completion of all structural solutions as soon as possible, but in no event later than April 30, 2002.

- e. Unless another deadline is specified in writing by the Commissioner, on or before three hundred and sixty-five (365) days after approval of the report described in the preceding paragraph, the Municipality shall (1) submit for the Commissioner's review and written approval contract plans and specifications for the approved remedial actions, a revised list of all permits and approvals required for such actions, and a revised schedule for applying for and obtaining such permits and approvals, and (2) submit applications for all permits and approvals required under the Connecticut General Statutes for such actions. The Municipality shall use best efforts to obtain all required permits and approvals.
 - f. The Municipality shall perform the approved remedial actions in accordance with the approved schedule(s), but in no event shall the approved remedial actions be completed by later than April 30, 2002. Within fifteen days after completing such actions, the Municipality shall certify to the Commissioner in writing that the actions have been completed as approved.
 - g. The Municipality may request that the Commissioner approve, in writing, revisions to any document approved hereunder in order to make such document consistent with law or for any other appropriate reason.
2. Progress reports. On or before the last day of March, June, September, and December of each year after issuance of this order and continuing until all actions required by this order have been completed as approved and to the satisfaction of the Commissioner, the Municipality shall submit a progress report to the Commissioner describing the actions which the Municipality has taken to comply with this order to date.
 3. Full compliance. The Municipality 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.
 4. Approvals. The Municipality 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 Municipality that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and the Municipality 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 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.

5. Definitions. As used in this consent order, "Commissioner" means the Commissioner or an agent of the Commissioner.
6. 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 a Connecticut or federal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday, or Connecticut or federal holiday.
7. Notification of noncompliance. In the event that the Municipality 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, the Municipality 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, the Municipality 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 the Municipality shall comply with any dates which may be approved in writing by the Commissioner. Notification by the Municipality 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.
8. 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 a duly authorized representative of such person,] as those terms are defined in section 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense."
9. 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 Municipality to an injunction and penalties under Chapters 439, and 445 or 446k of the Connecticut General Statutes.

10. False statements. Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under Section 22a-438 or 22a-131a of the Connecticut General Statutes or, in accordance with Section 22a-6, under Section 53a-157 of the Connecticut General Statutes.
11. Notice of transfer; liability of the Municipality and others. Until the Municipality has fully complied with this consent order, the Municipality 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. The Municipality's obligations under this consent order shall not be affected by the passage of title to any property to any other person or municipality. Any future owner of the site may be subject to the issuance of an order from the Commissioner.
12. 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 the Municipality 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 the Municipality to undertake further investigation or further action to prevent or abate pollution.
13. The Municipality's obligations under law. Nothing in this consent order shall relieve the Municipality of other obligations under applicable federal, state and local law.
14. 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 the Municipality pursuant to this consent order will result in compliance or prevent or abate pollution.
15. 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.
16. Notice to Commissioner of changes. Within fifteen days of the date the Municipality 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, the Municipality shall submit the correct or omitted information to the Commissioner.

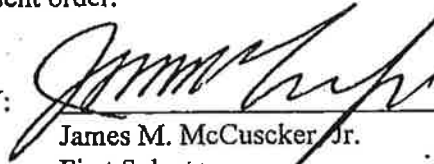
17. Submission of documents. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in writing by the Commissioner, be directed to:

Mr. Dennis J. Greci, P.E.
Department of Environmental Protection
Water Management Bureau
Planning & Standards Division
79 Elm Street
Hartford, Connecticut 06106-5127

18. Revocation of previous Order. Order No. WC-3611 and its modifications shall be considered revoked upon signature of this consent order by both parties.

The Municipality 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 Municipality to the terms and conditions of the consent order.

BY:

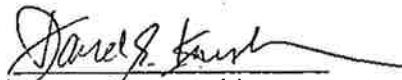


James M. McCusker Jr.
First Selectman
Town of Clinton

DATE:

10/2/97

Issued as a final decision in the appeal of Order No. WC-5227 on October 10, 1997.



David S. Knishkowy
Director of Adjudications

ORDER NO. WC 5238
DEP/WPC NO. 027-001
DISCHARGE CODE M
TOWN OF CLINTON
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RECEIVED

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DMR PROCESSING
WATER MANAGEMENT