

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

May 19, 2021

In the Matter of
Southbridge Recycling & Disposal Park, Inc.

Docket No. 2019-020
DEP Enforcement Document
No. 00007154

FINAL DECISION

In May 2019, the Petitioner Southbridge Recycling & Disposal Park, Inc. filed this appeal challenging a Demand for Payment of \$136,500.00 in Stipulated Penalties (“Stipulated Penalties Demand”) that the Central Regional Office of the Massachusetts Department of Environmental Protection (“MassDEP” or “the Department”) issued to the Petitioner on May 1, 2019 for purportedly violating the provisions of an Administrative Consent Order With Penalty, Enforcement Document Number 00005853 that the Petitioner signed with the Department on October 24, 2018 (“the 2018 Consent Order”) to address the Petitioner’s purported environmental violations at the Southbridge Sanitary Landfill located at 165 Barefoot Road in Southbridge, Massachusetts (“the Landfill”). These purported environmental violations took place at the Landfill from December 2, 2016 through October 14, 2018.

By agreement of the parties, litigation of Petitioner’s appeal of the Stipulated Penalties Demand has been suspended or stayed for more than one year (since October 2019) so that they could attempt settlement of the appeal by written agreement of the parties. During this period, the parties have conducted extensive settlement discussions and their efforts have been

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successful because currently pending before me for review pursuant to 310 CMR 1.01(8)(c), is a proposed Settlement Agreement that the Petitioner and the Department have executed to settle the Petitioner's appeal of the Stipulated Penalties Demand. The Settlement Agreement is in the form of an Administrative Consent Order With Penalty and Notice of Non-Compliance ("the 2021 Consent Order") that was executed by: (1) John W. Casella, the Petitioner's President and Clerk, on February 11, 2021 and (2) Mary Jude Pigsley, Regional Director of the Department's Central Regional Office, on February 12, 2021.

After reviewing the 2021 Consent Order, I find that it is reasonable and furthers the statutory and regulatory interests of:

- (1) G.L. c. 111, §§ 142A-142O;
- (2) the Department's Air Pollution Regulations at 310 CMR 6.00, 310 CMR 7.00, and 310 CMR 8.00;
- (3) G.L. c. 111, §§ 150-150A1/2;
- (4) the Department's Site Assignment Regulations for Solid Waste Facilities at 310 CMR 16.00; and
- (5) the Department's Solid Waste Management Regulations at 310 CMR 19.00.

Accordingly, I issue this Final Decision approving and incorporating the 2021 Consent Order.

Pursuant to the 2021 Consent Order, I issue the following Orders:

1. In accordance with ¶ 32 of the 2021 Consent Order, the effective date of the 2021 Consent Order is the date of this Final Decision.
2. In accordance with ¶ 15.a of the 2021 Consent Order, effective immediately the

Petitioner¹ shall ensure that the third-party odor inspector that it retains to respond to odor complaints at the Landfill does the following:

- (a) follows the Odor Protocol attached to and incorporated into the 2021 Consent Order as Appendix A;
- (b) documents odor complaints and conducts odor inspections in accordance with the requirements set forth in Appendix A;
- (c) uses the Odor Complaint Intake form attached to and incorporated into the 2021 Consent Order as Appendix C to document complaints received regarding odors from the Landfill; and
- (d) uses the Odor Complaint Inspection Report form attached to and incorporated into the 2021 Consent Order as Appendix D to document its observations of odors from the Landfill.

3. In accordance with ¶ 15.b of the 2021 Consent Order, the effective date of the modification to the Corrective Action Design Permit (No. X281549) issued by the Department to the Petitioner on February 5, 2020, which is attached to the 2021 Consent Order as Appendix E (“modification to the CAD2 permit”), is the date of this Final Decision.

4. In accordance with ¶ 15.b of the 2021 Consent Order, all odor complaints regarding the Landfill that are received during the closure phase of the Landfill shall be addressed according to the provisions of paragraph IV.M. of the modification to the CAD2 permit, notwithstanding any provision of any previous permit issued to the Petitioner, including but not limited to paragraph W.V. of the Authorization to Operate permit for phase VII Cell 7.4 Stage II (No. X271880) issued by the Department to the Petitioner on February 21, 2017.

5. In accordance with ¶ 16 of the 2021 Consent Order, effective immediately:

- (a) all Department inspectors will use the Odor Complaint Inspection Report

¹ In the 2021 Consent Order, the Petitioner is referred to as “Respondent” or “SRDP.” 2021 Consent Order, ¶ 2. Hence, when the term “the Petitioner” is used in this Final Decision it means the Respondent or SRDP as set forth in the 2021 Consent Order.

form attached to and incorporated into the 2021 Consent Order as Appendix D to document their observations of odors from the Landfill; and

- (b) the Department shall apply the criteria set forth in the Odor Protocol attached to and incorporated into the 2021 Consent Order as Appendix B in making any determination that a violation under the 2018 Consent Order has occurred as a result of Landfill odors detected at the Landfill perimeter or at a complainant's location.

6. In accordance with ¶ 16 of the 2021 Consent Order, the 2021 Consent Order addresses Southbridge Sanitary Landfill-specific conditions only and is not intended to limit or restrict the Department's decisions with regard to actions at other landfills.

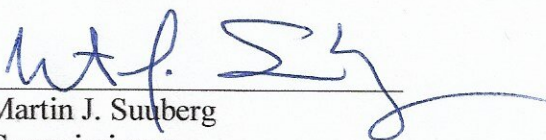
7. In accordance with ¶ 17 of the 2021 Consent Order, the 2018 Consent Order is supplemented by the terms set forth in ¶¶ 15 and 16 of the 2021 Consent Order as discussed above in ¶¶ 2-6 but is otherwise unaltered and remains in full force and effect.

8. In accordance with ¶¶ 21 and 28 of the 2021 Consent Order, the Petitioner shall pay to the Commonwealth the sum of One Hundred Thousand dollars (\$100,000.00) within thirty (30) days after the issuance of this Final Decision as a civil administrative penalty for the alleged violations set forth in Part II of the 2021 Consent Order (¶¶ 3-11 of 2021 Consent Order). Paragraph 21 of the 2021 Consent Order shall not be construed or operate to bar, diminish, adjudicate, or in any way affect, any legal or equitable right of the Department to assess the Petitioner additional civil administrative penalties, or to seek any other relief, with respect to any future violation of the 2018 Consent Order, any provision of 2021 Consent Order, or any law or regulation.

9. In accordance with ¶ 28 of the 2021 Consent Order and G.L. c. 21A, § 16, if the Petitioner fails to pay in full any civil administrative penalty as required by the 2021 Consent Order as set forth above, the Petitioner will be liable to the Commonwealth for up to three (3)

times the amount of the civil administrative penalty, together with costs, plus interest on the balance due from the time such penalty became due and attorney's fees, including all costs and attorney's fees incurred in the collection thereof. The rate of interest will be the rate set forth in G.L. c. 231, § 6C.

10. In accordance with ¶¶ 12, 13, and 22 of the 2021 Consent Order, G.L. c. 30A, and 310 CMR 1.01(8)(c), this appeal is dismissed with the parties waiving whatever rights they may have to further administrative review before the Department as well as any appeal to Court. This waiver does not extend to any other order issued by the Department.


Martin J. Sunberg
Commissioner

SERVICE LIST

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