



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



OF CONNECTICUT)

VS.)

ORDER NO. 8076)

UNITED ILLUMINATING COMPANY)

CONSENT ORDER

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

1. United Illuminating Company ("Respondent") is a corporation which owns property located on Alabama Street and Connecticut Street more fully described as Lots 5, 6, 10, 11, 12, 13, Block 951, Map 67 ("site one"), Lot 4.1, Block 952, Map 67 ("site two") New Haven, Connecticut collectively referred to as "the sites".
2. New Haven Terminal Incorporated is a corporation which leases site one and site two from Respondent. M.J. Metals is a corporation which subleases site one and site two from New Haven Terminal Incorporated and operates a scrap metal yard. New Haven Terminal Incorporated and M.J. Metals are hereinafter referred to as "Lessees".
3. 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").
4. The Commissioner, in accordance with the requirements of 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.
5. At the sites, Respondent has permitted the Lessees to cause materials to be handled, transported or stored without taking reasonable precautions to prevent particulate matter from becoming airborne and has caused or permitted the discharge of visible emissions beyond the lot line of the sites.
6. The Commissioner has determined that fugitive emissions at the sites must be reduced to aid in bringing the nonattainment area into attainment with the NAAQS for PM10.
7. 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").

Respondent's initials: RS

Date: 11/22/93

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8. The Commissioner has issued orders to the Lessees, as operators of the sites, to take steps necessary to abate fugitive emissions from the sites.
9. By agreeing to this Consent Order, Respondents make no admission of fact or law with respect to the findings set forth in paragraphs A.5. through A.7. of this Consent Order.
- 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:
 1. Respondent shall implement and complete the steps described in paragraphs B.2. through B.3. of this Consent Order within one (1) year of notice to the Respondent from the Commissioner that, Lessees are not in compliance with any step of the orders issued to them concerning the sites or, if federally enforceable actions to abate the emissions have not been completed to the satisfaction of the Commissioner. Notwithstanding the above, in the event that Respondent is unable, despite good faith efforts, to remove the lessees and their operations and regain control of the sites in sufficient time to complete the remedial actions within the one (1) year period, Respondent may request an extension of time from the Commissioner, which shall not be unreasonably withheld.
 2. The Commissioner has reviewed and approved the Respondent's written plan entitled: "Remediation Plan For Fugitive Emissions Alabama Street and Connecticut Avenue New Haven, Connecticut" dated November 19, 1993 ("plan"). Said plan is attached hereto as Exhibit A and which identifies the remedial actions which Respondent will take to prevent particulate matter from being airborne and to ensure that no fugitive discharges of visible emissions occur beyond Respondent's legal property boundaries. The plan designates all land within site one and site two as vehicle travel, parking or barricaded and stabilized areas. Such plan shall include requirements for:
 - a. properly grading and paving all areas that will be open to routine vehicle travel and parking;
 - b. fencing in with permanent barriers, such as guard rails or boulders, all areas that will not be open to routine vehicle travel and parking. Such areas will only be entered for inspection and necessary repairs and improvements to the utility right-of-way;
 - c. stabilizing all areas included within such permanent barriers by planting with vegetation suitable to the soil and climate, or providing a crushed stone cover.

Respondent's initials: *JS* Date: 11/22/93

The plan includes an implementation and maintenance schedule for all remedial actions required pursuant to this Consent Order. The plan also includes 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 one (1) year from notice from the Commissioner as described in paragraph B.1 of this Consent Order, unless an extension is granted pursuant to B.1.

3. 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.
4. If the approved remedial actions do not result in the prevention and abatement of fugitive emissions 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.
5. Progress reports. On or by the tenth day of every third month; commencing January 10, 1994, 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 with this Consent Order to date.
6. 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.
7. 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 the 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 thirty days of the Commissioner's notice of deficiencies. In approving any document or other action under this Consent Order, the Commissioner may approve

Respondent's initials: *ST*

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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.

8. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or an agent of the Commissioner.
9. 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.
10. 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.
11. 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 responsible corporate officer of the Respondent or a duly authorized representative of such officer, 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:

Respondent's initials: CFJ

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"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."

12. 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 Respondent to an injunction and penalties under Chapters 439 and 446c of the Connecticut General Statutes.
13. False statements. Any false statement in any information submitted pursuant to this Consent Order may be punishable as a criminal offense under Section 22a-175 of the Connecticut General Statutes or, in accordance with Section 22a-6, under Section 53a-157 of the Connecticut General Statutes.
14. 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 sites, which are the subject of this Consent Order, or obtaining a new mailing or location address. Upon Respondent's sale of its entire interest in the land and at the sites, Respondent's obligations under this Consent Order shall terminate. Respondent may continue to hold an easement over the sites for a utility right-of-way, including the right to enter the sites for necessary repairs and improvements. However, if Respondent or any of its shareholders retains an ownership interest in the sites or acquires an ownership interest in any business operated thereon, whether directly or indirectly (e.g., by ownership of stock in a corporation which owns the site or operates the business at the sites), Respondent's obligations under this Consent Order shall remain fully in effect. Any future owner of the sites may be subject to the issuance of an order from the Commissioner. JTB 12/2/93
15. 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

Respondent's initials: JTB

Date: 11/22/93

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.

16. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondent of other obligations under applicable federal, state and local law.
17. 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.
18. Access to sites. Any representative of the Department of Environmental Protection may enter the sites without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.
19. 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.
20. 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.
21. 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. H. McAuliffe
Department of Environmental Protection
Bureau of Air Management
79 Elm Street
Hartford, Connecticut 06106

Respondent's initials: RA

Date: 11/22/13

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.

UNITED ILLUMINATING COMPANY

BY: *Albert N. Henricksen*
print: Albert N. Henricksen
title: Vice President Human & Environmental Resources
date: November 22, 1993

Issued as a final decision in the appeal of Unilateral Order No. 8076A.

12-2-93
Date

D. H. Levenson
Donald H. Levenson, Esq.
Hearing Officer
Department of Environmental
Protection
Office of Adjudications

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Certified Document No.