

OFFICE OF ADJUDICATIONS

IN THE MATTER OF : **APPLICATION NO. 200300207**

CRRA/IPC :
211 MURPHY ROAD, HARTFORD **DECEMBER 7, 2006**

PROPOSED FINAL DECISION

I

SUMMARY

The Connecticut Resources Recovery Authority (CRRA/applicant) has applied to the Department of Environmental Protection (DEP) for approval of modifications to its existing permits to construct and operate its Mid-Connecticut Regional Recycling Center located at 211 Murphy Road in Hartford. General Statutes §22-208a. Specifically, the applicant seeks to expand its capacity to include processing and recycling of up to 350 tons per day of paper products. The DEP has issued a Notice of Tentative Determination to approve the proposed modifications.

The parties in this matter are the applicant, the DEP Bureau of Materials Management and Compliance Assurance (staff), and the intervenor Connecticut Coalition for Environmental Justice on behalf of itself and the Hartford Environmental Justice Network. The parties have submitted Attachment A, *Stipulated Proposed Findings of Fact and Conclusions of Law* (Stipulation).¹ Staff has prepared a draft permit that would authorize the proposed modifications subject to certain conditions (Attachment B).

¹ The applicant and staff also submitted *Joint Proposed Findings of Fact and Conclusions of Law* that were not agreed to by the Intervenor but are referenced in the attached Stipulation. Similarly, the intervenor submitted proposed findings that were objected to by staff and the applicant. To the extent that I have relied

Upon review of the record and consideration of the facts and relevant law in this matter, I find that the application meets the relevant statutory and regulatory requirements. The proposed modifications, if constructed and operated in accordance with the terms and conditions of the draft permit, would comply with all relevant statutes and regulations. The proposed expansion of the applicant's capacity to include paper and fiber recycling processes would not result in unreasonable pollution. The applicant's environmental equity plan was sufficient and fulfilled the purpose and intent of the DEP Environmental Equity Policy.

The parties' Stipulation, as supplemented herein, satisfactorily conveys the factual findings and legal conclusions necessary to support this conclusion. I adopt this Stipulation as part of my proposed final decision and recommend issuance of the draft permit.

II

DECISION

A

SUPPLEMENTAL FINDINGS OF FACT

I have reviewed the record, public comments and the stipulated proposed findings of fact. I adopt the findings set forth in the Stipulation and make the following supplemental findings of fact.²

Background

- 2a. The intervenor was granted party status after filing a verified petition, which sets forth allegations that the applicant's proposed expansion is likely to cause unreasonable pollution.³ General Statutes §22a-19 (a). The petition also

on any of these additional proposed findings or conclusions, they are restated in my Supplemental Findings of Fact or Supplemental Conclusions of Law.

² The numbering of paragraphs herein corresponds to the numbering in the attached Stipulation.

³ The petition is included in the docket file, which is a part of the administrative record in this proceeding. General Statutes §4-177 (d).

contains allegations that “[the intervenor] and the communities it represents may suffer increased asthma, other respiratory ailments, increased cancer, increased health problems from exposure to toxins, increase in premature death rates, as well as increased costs and decreased quality of life from the excess pollution from these facilities.” The intervenor claims that excess pollution would be caused by diesel emissions from the additional truck traffic that would result from the facility expansion. (Test. M. Mitchell, 9/14/06, pp. 27 - 28.)

- 2b. In support of the allegations of unreasonable pollution, the petition contains claims that the draft permit lacks the following conditions:
- a. required compliance with municipal ordinances and regulations;
 - b. required notification to the DEP and local agencies of emergency operational disruptions of more than two hours;
 - c. requirements for an adequate sprinkler fire suppression system;
 - d. prohibited overnight storage of recyclables outside the facility;
 - e. required reimbursement of costs of emergency services provided to the facility, its contractors or haulers by the City of Hartford;
 - f. required radiation sensors to test all loads of recyclables for contamination;
 - g. host community benefits sufficient to increase the City of Hartford recycling rates;
 - h. prohibited transfer of all or part of previous paper recycling permit; and
 - i. required retrofitting of the applicant’s pre-2007 diesel-fueled trucks and equipment with diesel emissions controls and of all trucks delivering to the facility.
- 5b. The proposed modifications by CRRA include installing new equipment for paper/fiber processing, and replacing and upgrading existing equipment for processing commingled containers within the existing footprint of the

facility. The new recycling processes include separating and bailing paper, including junk mail, office paper and magazines, and transporting materials to mills for further processing and recycling. This additional processing capacity would make it possible to divert these paper materials from municipal solid waste streams. (Test. P. Egan, 9/7/06, pp. 30-40.)

The Facility

14a. CRRA currently holds a permit to recycle paper and related fiber material at a facility located at 123 Murphy Road and controls approximately 175 tons per day of paper delivered to this facility. If the proposed expansion is approved, the existing capacity would remain with the owner of 123 Murphy Road. CRRA would only receive paper and fiber for recycling at 211 Murphy Road under the modified permit. (Test. P. Egan, 9/7/06, pp. 29-31.)

Environmental Considerations

17a. The draft permit provides, among other things, that the applicant is not “relieved of other obligations under applicable federal, state and local laws.” The applicant must also provide expeditious notice to the DEP of any emergency that disrupts operations for more than twenty-four hours, properly dispose of any solid waste that is inadvertently received and unsuitable for processing at the facility, and store all solid waste in a manner that protects public health and the environment. (Ex. DEP-12.)

17b. Other environmental controls include the facility fire protection system, which would be expanded to cover the designated paper recycling area, drip and spill containment, operations training, contingency plans and a waste analysis plan that incorporates delivery standards to ensure that

unacceptable materials are not delivered to the facility. (Test. P. Egan, 9/7/06, pp. 38-40.)

Traffic

- 27a. The additional truck traffic expected as a result of the expansion represents an estimated increase of less than three in 1,000 trucks relative to the existing truck traffic on I-91 and less than one in eighty relative to existing truck traffic on Brainard Road. Estimates of diesel emissions, based on EPA models, indicate that relative increases in emissions due to the additional truck traffic will not be significant. Other factors that are expected to mitigate increases in emissions include improved truck traffic flow at the facility and on local delivery routes, federal low sulfur diesel fuel standards, and idling restrictions included in the draft permit. Traffic studies have also indicated that the additional truck traffic would not coincide with peak traffic hours on I-91 or on local roadways. (Test. M. Holzman, 9/14/06, pp. 165 - 179.)

Environmental Equity Policy

- 34a. The DEP Environmental Equity Policy provides, in part, that "...no segment of the population should, because of its racial or economic makeup, bear a disproportionate share of the risks and consequences of environmental pollution or be denied equal access to environmental benefits." Through the Environmental Justice Program, the DEP incorporates environmental equity considerations into its program development and implementation, policy making and regulatory activities. (Ex. APP-2.)

B

SUPPLEMENTAL CONCLUSIONS OF LAW

I have reviewed and adopt the stipulated conclusions of law and add the following supplemental conclusions.

1a. The Commissioner's authority to regulate solid waste facilities is set forth in the Solid Waste Management Act. General Statutes §§22a-207 through 22a-256ee. The applicant's existing permit to operate the facility was issued after the Commissioner determined that the facility was constructed in accordance with the terms and conditions of a permit to construct and the owner/operator demonstrated that the facility would be operated in accordance with all applicable laws and regulations. General Statutes §22a-208a(c); Regs., Conn. State Agencies §22a-209-4(d). The modification to the applicant's existing permits may be issued if the Commissioner determines that facility operations would comply with applicable statutes and regulations; such operations are consistent with the State Solid Waste Management Plan; present construction and operation complies with existing permit terms and conditions and applicable statutes and regulations; and the owner/operator of the facility has a satisfactory compliance history. §22a-209-4(d)(1)(A) through (D).

1b. The evidence shows that the proposed permit modifications would not adversely impact the health, safety and welfare of the people or natural resources of the state. The applicant has demonstrated that the modifications to the facility would be constructed and operated in accordance with applicable statutes and regulations as contemplated by the draft permit. §22a-209-4(d)(1)(A). The proposed expansion is consistent with the State Solid Waste Program. §22a-209-4(d)(1)(B). The proposed permit modifications are therefore consistent with and satisfy the applicable provisions of all relevant statutes and regulations. §22a-208a.

Unreasonable Pollution

9a. The Connecticut Coalition for Environmental Justice intervened under the provisions of General Statutes §22a-19(a). By verified petition, the intervenor alleged that a proceeding or action “involves conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state.” The burden of proof of this allegation lies with the intervenor. *Manchester Environmental Coalition v. Stockton*, 184 Conn. 51 (1981).

9b. In support of its claim of unreasonable pollution, the intervenor provided evidence to address its allegations that the draft permit lacked certain conditions. The record shows that many of the intervenor’s alleged deficiencies are, in fact, adequately addressed by the permit terms and conditions or by the applicant’s required compliance with other state and local laws. Other permit conditions proposed by the intervenor, such as required reimbursement of the costs of emergency services, are outside the jurisdiction of the DEP and are therefore beyond the scope of the environmental issues that I am authorized to consider in this proceeding.

9c. The intervenor did not introduce sufficient evidence to support its claims that the expansion of the facility would cause environmental harm associated with increased health risks. However, it is clear from the record that the actual expansion of the facility to accommodate recycling paper and fiber would not cause unreasonable pollution. Further, there is no evidence that the proposed expansion is inconsistent with any statutory and regulatory requirements or policies that are designed to protect the natural resources of the state.

9d. The intervenor presented evidence of research regarding the health issues that may be associated with releases of PM_{2.5} to support its claims that emissions

from diesel fueled vehicles can cause or exacerbate health problems among sensitive groups exposed to such emissions. However, the intervenor's evidence failed to establish any link to the actual impact of the additional truck traffic that may result from the facility expansion. The applicant provided the only direct evidence of the approximate increase in diesel emissions that might occur from the increased truck traffic. Such increase is minimal relative to total emissions from truck traffic in the area. The applicant also provided evidence of the associated factors that are expected to reduce such emissions in and around the facility. The intervenor did not provide sufficient evidence to carry its burden of proving that the applicant's proposed expansion would result in unreasonable pollution.

Environmental Equity Policy

10a. The DEP has demonstrated its commitment to the principles of environmental equity through its Environmental Justice Program. This program sets forth certain required actions that an applicant must take to comply with the DEP Environmental Equity Policy. Implementation of the program includes a requirement that applicants for hazardous or solid waste permits prepare and successfully implement an approved Environmental Equity Plan before a notice of tentative determination approving an application will be issued. Despite the intervenor's claim to the contrary, the applicant's efforts effectively implemented the policy.

10b. The record clearly shows that the applicant worked with the DEP Environmental Justice Program staff in the preparation and implementation of its Environmental Equity Plan. Staff reviewing the application confirmed that the applicant successfully met its obligations under the Environmental Equity Policy as implemented by the DEP. In fact, it is undisputed that the applicant executed its Environmental Equity Plan as approved by the DEP.

C

CONCLUSION

The proposed modifications to the existing solid waste permits are consistent with and satisfy all relevant statutes and regulations. General Statutes §22a-207 through 22a-256ee; Regs., Conn.State Agencies §22a-209-1 through 22a-209-10. The draft permit sets forth terms and conditions that govern the applicant's operations and are within the Commissioner's jurisdiction. The activities proposed in the permit modifications are not reasonably likely to cause unreasonable pollution. Finally, the applicant successfully met its obligations under the Environmental Equity Policy as implemented by the DEP.

III

RECOMMENDATION

The applicant has demonstrated that the proposed permit modifications, if implemented in accordance with the terms and conditions of the revised draft permit, would ensure the public's health, safety and welfare and protect the natural resources of the state. I therefore recommend that the permit be issued.

/s/ Jean F. Dellamarggio
Jean F. Dellamarggio, Hearing Officer

P A R T Y L I S T

**Proposed Final Decision in the Matter of CRRA/IPC
Application No. 200300207**

PARTY

REPRESENTED BY

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STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF ADJUDICATIONS

IN THE MATTER OF : APPLICATION NO. 200300207
:
CRRA/IPC, :
:
211 MURPHY ROAD, HARTFORD : OCTOBER 19, 2006

STIPULATED PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to Conn. Agencies Regs. § 22a-3a-6(x) and the Hearing Officer's September 22, 2006 Post-Hearing Directive, the Connecticut Resources Recovery Authority ("CRRA"), the staff of the Department of Environmental Protection ("DEP"), and the Connecticut Coalition for Environmental Justice ("CCEJ") hereby submit the following stipulated proposed findings of fact and conclusions of law:

A. FINDINGS OF FACT

Background

1. Pursuant to Conn. Gen. Stat. § 22a-208a and Conn. Agencies Regs. § 22a-209-4, CRRA submitted Application No. 200300207 to the DEP on January 24, 2003, as revised on October 26, 2005, requesting DEP approval of certain modifications to Permit to Construct No. SW-0640145 and Permit to Operate No. SW-0640171 for CRRA's Mid-Connecticut Regional Recycling Center Container Processing Facility (the "Facility"), located at 211 Murphy Road, Hartford, Connecticut (the "Site"), that would allow CRRA to additionally process and recycle up to 350 tons per day of paper products (e.g., newspaper, corrugated cardboard, magazines, junk mail, office waste paper, box board) at the Facility. (Exhibit APP-1; Exhibit APP-2.)
2. The parties to this proceeding consist of CRRA, DEP staff, and CCEJ.

3. CRRA was created in 1973 by an act of the Connecticut General Assembly to provide solid waste management services to municipalities and businesses. (APP-2, Attachment D.) CRRA “is a body politic and corporate, constituting a public instrumentality and political subdivision of the state of Connecticut established and created for the performance of an essential public and governmental function” Conn. Gen. Stat. § 22a-261(a). CRRA provides waste management and recycling services to more than two-thirds of Connecticut’s cities and towns. (Exhibit APP-2, Attachment D.)
4. In accordance with Conn. Gen. Stat. § 22a-6g(a), CRRA caused to be published in *The Hartford Courant* a Notice of Permit Application and provided a copy of such notice to the Mayor of the City of Hartford (the “Mayor”). (Exhibit DEP-1; Exhibit APP-2, Tab 12.) In accordance with Conn. Gen. Stat. § 22a-208a(b), the DEP provided notice of CRRA’s filing of Application No. 200300207 to the Mayor. (Exhibit DEP-2.)
5. The Application was submitted on DEP-prescribed forms for a *Permit Application for Construction and Operation of a Solid Waste Facility* and included, among other things: (i) background, business, and compliance information regarding CRRA; (ii) Site location information; (iii) a statement regarding the Facility’s consistency with the State’s Solid Waste Management Plan; (iv) a Facility Plan, including engineering drawings detailing the proposed modifications to the Facility, a Facility Operation and Management Plan, and a traffic study; and (v) an Environmental Equity Plan. (Exhibit APP-2.)
6. After concluding that Application No. 200300207 was complete, and following its technical review of the application and additional information submitted by CRRA, the DEP issued notice that it made a tentative determination to approve Application No. 200300207. (Exhibit DEP-3; Exhibit DEP-8.) In accordance with Conn. Gen. Stat. §

22a-6h, the DEP caused to be published in *The Hartford Courant* its Notice of Tentative Determination to approve Application No. 200300207 and notified the Mayor of its tentative determination to approve Application No. 200300207. (Exhibit DEP-8.)

7. In accordance with Conn. Gen. Stat. § 22a-6(d), the DEP caused to be published in *The Hartford Courant* a Notice of Public Hearing and provided a copy of such notice to the Mayor and to applicable members of the legislature. (Exhibit DEP-13.)
8. The DEP issued draft Permit to Construct and Operate No. 0640734 – PC/PO, dated April 16, 2006 (the “Draft Permit”), which would authorize CRRA’s requested modifications subject to certain conditions contained in the Draft Permit. (Exhibit DEP-12.)
9. Public hearings regarding Application No. 200300207 were held on September 5, 7, 11, and 14, 2006. (Hr’g Tr. 1-3, Sept. 5, 2006; Hr’g Tr. 1-2, Sept. 7, 2006; Hr’g Tr. 1-2, Sept. 11, 2006; Hr’g Tr. 1-2, Sept. 14, 2006.)

The Facility

10. The existing Facility is an intermediate processing facility that has been previously permitted to process and recycle up to 210 tons per day commingled containers (*i.e.*, glass bottles, plastic containers, metal cans) since 1992. (Exhibit APP-2, Attachment A; Exhibit DEP-11.)
11. The Facility is situated on the approximately 7-acre Site located in the South Meadows area of Hartford, an industrial area situated between I-91 on the west and the Hartford-Brainard Airport on the east. (Exhibit APP-2, Attachment C, Attachment H at 4.) The Site is more than one-half mile from the nearest residence. (Exhibit APP-2, Attachment H at 4.)

12. The City of Hartford (“City”) Planning and Zoning Commission has concluded that the modification of the Facility “is consistent with the [City’s] Plan of Development, and is compatible with the surrounding, industrial, commercial, and warehouse uses”
(Exhibit APP-6 at 1.)
13. CRRA constructed the Facility pursuant to Permit to Construct No. SW-0640145, issued by the DEP on August 2, 1991. (Exhibit DEP-11.)
14. CRRA operates the Facility pursuant to Permit to Operate No. SW-0640171, issued by the DEP on March 13, 1992. (*Id.*)

Environmental Considerations

15. Paper recycling operations at the Facility will take place indoors. The paper recycling operation at the Facility does not generate odors or adverse noise impacts on the surrounding community. The *de minimis* quantities of liquid waste generated at the Facility are collected and discharged to the Facility’s sanitary sewer system in accordance with the requirements of the DEP-issued General Permit for the Miscellaneous Discharge of Sewer Compatible Wastewater. Stormwater generated at the Facility is managed in accordance with the requirements of the DEP-issued General Permit for the Discharge of Stormwater Associated with Industrial Activity. (Exhibit APP-2, Attachment H at 32-33.)
16. The Facility is equipped with a dry-pipe sprinkler system, and any modifications to the fire protection system will be done in accordance with applicable City requirements and the National Fire Protection Association code. (Exhibit APP-2, Attachment H at 13-14; Hr’g Tr. 38-39, 40, Sept. 7, 2006.) Pursuant to its building permit from the City, the

Facility is subject to review by the City Fire Marshall and is required to comply with the State building code, including all applicable fire protection requirements. (Exhibit APP-2, Attachment H at 13-14; Hr’g Tr. 38-39, 40, Sept. 7, 2006.) The Draft Permit also requires that CRRA construct modifications and operate the upgraded Facility in accordance with its Facility Plan, that CRRA store all solid waste on-site in conformance with proper fire control measures, and that routine maintenance and inspections of fire control equipment be conducted in accordance with manufacturer’s specifications. (Exhibit DEP-12.)

17. *This finding of fact was not stipulated to by CCEJ. Please refer to Finding of Fact 17 in the Proposed Joint Findings of Fact and Conclusions of Law of CRRA and DEP staff.*

Solid Waste Management Plan

18. DEP staff testified that CRRA’s proposed modifications to the Facility are consistent with Connecticut’s current Solid Waste Management Plan and the *State of Connecticut Proposed Amendment to the State Solid Waste Management Plan, July 2006* (the “Proposed Plan”). (Hr’g Tr. 55, 56-57, Sept. 11, 2006.) DEP staff also testified that CRRA’s proposed modifications to the Facility will enhance the recycling goals of the State and of the DEP. (*Id.* at 37.)
19. An objective of the Proposed Plan is to “[m]ove aggressively to strengthen Connecticut’s public and private recycling and composting efforts and infrastructure to increase the quantity and quality of recovered materials and to build resilient, highly efficient and continually improving programs to reduce the amount of solid waste Connecticut disposes, both now and in the future. (Proposed Plan at 4-16, *available at* CT DEP: Solid Waste Management Plan, <http://www.dep.state.ct.us/wst/solidw/swplan/index.htm>.)

20. The Proposed Plan refers to CRRA's expansion of the Facility as an "example[] demonstrate[ing] the potential of the regional recycling system in Connecticut to provide the foundation for enhancing regional cooperation to support and promote recycling." (*Id.* at 4-23.)

Traffic

21. Application No. 200300207 includes CRRA's *Traffic Study for the Consolidation of the Commingled Container and Paper Operations at 211 Murphy Road, Hartford, CT*, dated October 21, 2005 ("Traffic Study"). (Exhibit APP-2, Attachment H.) The Traffic Study, which assessed the level of service at the Facility's driveways on Murphy Road and analyzed on-Site traffic circulation, concluded that that there would be no Facility-related adverse impacts to the levels of service on Murphy Road. (*Id.*; Hr'g Tr. 151-52, Sept. 14, 2006.)
22. CRRA was issued a special permit for the Facility by the City on May 31, 1991. (Exhibit APP-4; Hr'g Tr. 7-8, Sept. 11, 2006.) By special permit modification application dated February 26, 2006, CRRA applied to the City Planning and Zoning Commission for a modification to its special permit to allow CRRA to process and recycle up to 350 tons per day of paper products at the Facility. (Exhibit APP-4; Hr'g Tr. 7-8, Sept. 11, 2006; Exhibit APP-5.)
23. CRRA's special permit modification application included CRRA's *Supplemental Traffic Study for the Consolidation of the Commingled Container and Paper Operations at 211 Murphy Road, Hartford, CT*, dated February 17, 2006 ("Supplemental Traffic Study"). (Exhibit APP-4, Attachment 7.) The Supplemental Traffic Study, which examined Facility-related traffic impacts at the Brainard Road/Airport Road and Brainard

Road/Murphy Road intersections, concluded that there would be no Facility-related adverse impacts to the levels of service at such intersections. (*Id.*; Hr'g Tr. 151-52, Sept. 14, 2006.)

24. By resolution dated April 26, 2006, the City Planning and Zoning Commission approved CRRA's application for a modification to its special permit, subject to certain truck traffic-related conditions, including that CRRA submit to the Director of Planning and the Director of Public Works for approval a truck traffic monitoring and enforcement plan and a publicized complaint procedure to ensure that those trucks that access the Facility from the southbound exit ramp of I-91, and those trucks that egress the facility using the southbound on ramp to I-91, avoid using Brainard Rd., between Airport Rd. and Murphy Rd., and instead utilize Maxim Road to access/egress Murphy Road. (Exhibit APP-6; Hr'g Tr. 7-12, Sept. 11, 2006; *see also* Hr'g Tr. 158, Sept. 14, 2006.)
25. Trucks delivering recyclables to the Facility will predominantly utilize I-91 or Route 15, exiting at Airport Road or Brainard Road. (Hr'g Tr. 78-79, Sept. 7, 2006; Hr'g Tr. 12-13, Sept. 11, 2006; Exhibit APP-2, Attachment H, at 3-4.) The only trucks expected to use local surface streets to access the Facility are those trucks collecting recyclables from businesses and residences on the local surface streets. (Hr'g Tr. 78-79, Sept. 7, 2006.)
26. According to the Connecticut Department of Transportation, the average daily traffic count for I-91 (northbound and southbound traffic) is approximately 111,000 vehicles per day. (Hr'g Tr. 156-57, Sept. 14, 2006.) Of those 111,000 vehicles, approximately 11,000 are trucks. (*Id.* at 157.) According to a traffic report prepared by the Capitol Region Council of Governments, the average daily traffic count on Brainard Road

between Airport Road and Murphy Road is approximately 27,800 vehicles per day. (*Id.* at 157-58.) Of those 27,800 vehicles, approximately 2,400 are trucks. (*Id.*)

27. The addition of 350 tons per day of paper recycling at the Facility would result in an increase of approximately 30 additional trucks (inbound and outbound) per day to and from the Facility. (Hr'g Tr. 163-64, Sept. 11, 2006.)
28. The morning peak traffic hour for the Brainard Road/Airport Road intersection is between 7:30 a.m. and 8:30 a.m., and the morning peak traffic hour for the Brainard Road/Murphy Road intersection is between 7:45 a.m. and 8:45 a.m. (Hr'g Tr. 154, Sept. 14, 2006.) The afternoon peak traffic hours for the Brainard Road/Airport Road and Brainard Road/Murphy Road intersections are between 4:00 p.m. and 5:00 p.m. and between 4:30 p.m. and 5:30 p.m., respectively. (*Id.*)
29. The majority of trucks delivering recyclables to the Facility arrive at the Site between 11:00 a.m. and 3:00 p.m., with the morning peak traffic period occurring between 11:00 a.m. and 12:00 p.m. and the afternoon peak traffic period occurring between 2:00 p.m. and 3:00 p.m. (Hr'g Tr. 154-56, Sept. 14, 2006; Exhibit APP-2; Exhibit APP-4.) Only four trucks delivering recyclables to the Facility are expected to arrive at the Site during the morning peak traffic hours for the Brainard Road/Airport Road and Brainard Road/Murphy Road intersections. (Hr'g Tr. 155-56, Sept. 14, 2006.)
30. The additional trucks delivering recyclables to the Facility would have no adverse impact on the levels of service at the Brainard Road/Airport Road and Brainard Road/Murphy Road intersections or at the driveways of the Facility on Murphy Road. (Hr'g Tr. 151, 156, Sept. 14, 2006; Exhibit APP-4, Attachment 7.)

31. The Draft Permit requires that CRRA control all Facility-related traffic to as to mitigate the queuing of vehicles off-site and excessive or unsafe traffic impacts in the area of the Site. (Exhibit DEP-12 at 5.) The Draft Permit also requires that, pursuant to Conn. Agencies Regs. § 22a-174-18(b)(3)(C), trucks at the Facility shall not be left idling for more than three consecutive minutes. (*Id.*)
32. *This finding of fact was not stipulated to by CCEJ. Please refer to Finding of Fact 32 in the Proposed Joint Findings of Fact and Conclusions of Law of CRRA and DEP staff.*
33. *This finding of fact was not stipulated to by CCEJ. Please refer to Finding of Fact 33 in the Proposed Joint Findings of Fact and Conclusions of Law of CRRA and DEP staff.*
- 33h. Federal PM_{2.5} emission standards have declined in model year for engines from 0.6 grams per brake horsepower for years from 1988 to 1990; 0.25 grams per brake horsepower for years from 1991 to 1993; and, 0.1 grams per brake horsepower for years from 1994 to 2006. All 2007 model year highway diesel vehicles and newer are required to have PM_{2.5} levels at 0.01 grams per brake horsepower, which is a 90 percent reduction from the 1994 to 2006 emission levels. As highway diesel fueled vehicles are replaced with new vehicles, substantial reductions in PM_{2.5} emissions will result over time, even as vehicle miles traveled increases. (Hr'g Tr. 74-75, Sept. 11, 2006; Hr'g Tr. 177-78, Sept. 14, 2006.)
- 33i. *This finding of fact was not stipulated to by CCEJ. Please refer to Finding of Fact 33i in the Proposed Joint Findings of Fact and Conclusions of Law of CRRA and DEP staff.*
- 33k. Effective October 15, 2006, federal regulations require all on-road diesel engines to use ultra low sulfur diesel fuel, which will reduce the diesel sulfur content from 500 parts per million to 15 parts per million. This 97 percent reduction in diesel sulfur content will

result in a 97 percent reduction in sulfur dioxide emissions and, according to EPA, about a 9 percent reduction in PM_{2.5} emissions. (Hr’g Tr. 79, Sept. 11, 2006; Hr’g Tr. 178-79, Sept. 14, 2006.)

Environmental Equity Policy

34. CRRA worked closely with DEP Environmental Equity Program staff on the development of CRRA’s Environmental Equity Plan, (Hr’g Tr. 42-43, Sept. 7, 2006; Hr’g Tr. 42, Sept. 11, 2006; Exhibit DEP-5), and CRRA prepared and submitted its Environmental Equity Plan as part of its application and in accordance with the DEP’s *Guidelines for Completing the Environmental Equity Plan for Hazardous Waste and Solid Waste Facilities (Draft Rev. 8/23/01)*, (Exhibit APP-2, Tab 14).
35. On January 9, 2006, CRRA submitted to DEP its *Final Report on Public Outreach Efforts of the Connecticut Resources Recovery Authority Regarding a Permit Modification Application for an Intermediate Processing Facility for Container and Paper Recycling Activities at 211 Murphy Road, Hartford, Connecticut* (the “Final Report”). (Exhibit APP-3.)
36. The Final Report detailed CRRA’s implementation of its Environmental Equity Plan, which included: (i) correspondence with the Mayor and City Council of Hartford (Exhibit APP-3 at 5, Tab A); (ii) a public information meeting held at the Hartford Public Library on December 6, 2005 and co-sponsored by “Hartford 2000” (*id.* at 6-7, Tab B); (iii) a meeting with and presentation to the Hartford Neighborhood Environmental Partnership (“HNEP”) on November 8, 2005 (*id.* at 7-8, Tab C); (iv) a meeting with and presentation to the Hartford Environmental Justice Network (“HEJN”) on November 29, 2005 (*id.* at 8-9, Tab D); and (v) a meeting with and presentation to the South Meadows Problem

Solving Committee (“SMPSC”) on December 21, 2005 (*id.* at 9-10, Tab E). (Hr’g Tr. 42-48, Sept. 7, 2006.)

37. CRRA’s community outreach efforts for the December 6, 2005 public information meeting included: (i) press releases published in local English- and Spanish-speaking media outlets; (ii) public service announcements on local radio stations; (iii) 1,400 flyers mailed by Hartford 2000; and (iv) flyers placed by Hartford 2000 in City Hall and all nine branches of the Hartford Public Library. (Exhibit APP-3 at 2; Hr’g Tr. 45, Sept. 7, 2006; Hr’g Tr. 13-15, Sept. 11, 2006.)
38. Following each of its presentations at the December 6, 2005 public information meeting, the HNEP meeting, the HEJN meeting, and the SMPSC meeting, CRRA responded orally and in writing to questions posed by each meeting’s attendees. (Exhibit APP-3 at 2.)
39. During its review of the application, the DEP “solid waste permitting group did fully consider . . . all the appropriate aspects of this application including your [CRRA’s] environmental equity plan and final report.” (Exhibit DEP-10.) DEP staff testified that CRRA has complied with DEP’s Environmental Equity Policy and has fully addressed all DEP requirements concerning community outreach and environmental equity in this proceeding. (Hr’g Tr. 42-43, Sept. 11, 2006.)
40. *This finding of fact was not stipulated to by CCEJ. Please refer to Finding of Fact 40 in the Proposed Joint Findings of Fact and Conclusions of Law of CRRA and DEP staff.*

Compliance History

41. As required by DEP’s Permit Application Transmittal Form, CRRA’s application included “Applicant Compliance Information.” (Exhibit APP-2, Attachment B.)

42. After reviewing CRRA's compliance history and "Applicant Compliance Information," DEP staff concluded that "CRRA has been generally compliant and [has] not shown a pattern of significant non-compliance" and recommended the issuance of CRRA's requested permit modifications. (Exhibit DEP-7.) DEP staff also testified that there are no pending enforcement actions against CRRA related to the Facility. (Hr'g Tr. 37, Sept. 11, 2006.)

B. CONCLUSIONS OF LAW

1. *This conclusion of law was not stipulated to by CCEJ. Please refer to Conclusion of Law 1 in the Proposed Joint Findings of Fact and Conclusions of Law of CRRA and DEP staff.*
2. DEP staff prepared the Draft Permit and the Notice of Tentative Determination to approve Application No. 200300207, and DEP staff published and distributed the Notice of Tentative Determination, the Draft Permit, and the Notice of Public Hearing in accordance with all applicable statutory and regulatory requirements. The public hearings were held in accordance with all applicable statutory and regulatory requirements. (Finding of Fact ("FF-") 6 through FF-9.)
3. *This conclusion of law was not stipulated to by CCEJ. Please refer to Conclusion of Law 3 in the Proposed Joint Findings of Fact and Conclusions of Law of CRRA and DEP staff.*
4. In accordance with the requirements of Conn. Gen. Stat. § 22a-208a(d)(1), CRRA has filed its proposed plan, design, and method of operation of the Facility. (FF-1, FF-5.)

5. *This conclusion of law was not stipulated to by CCEJ. Please refer to Conclusion of Law 5 in the Proposed Joint Findings of Fact and Conclusions of Law of CRRA and DEP staff.*
6. *This conclusion of law was not stipulated to by CCEJ. Please refer to Conclusion of Law 6 in the Proposed Joint Findings of Fact and Conclusions of Law of CRRA and DEP staff.*
7. In accordance with the requirements of Conn. Agencies Regs. § 22a-209-4(d)(1)(C), the present construction and operation of the Facility is in full compliance with pertinent statutes, regulations, orders and existing permit terms and conditions. (FF-10 through FF-14, FF-42.)
8. In accordance with the requirements of Conn. Agencies Regs. § 22a-209-4(d)(1)(D), CRRA has not repeatedly violated pertinent statutes, regulations, orders or permit terms or conditions at any solid waste facility. (FF-41, FF-42.)
9. *This conclusion of law was not stipulated to by CCEJ. Please refer to Conclusion of Law 9 in the Proposed Joint Findings of Fact and Conclusions of Law of CRRA and DEP staff.*
10. *This conclusion of law was not stipulated to by CCEJ. Please refer to Conclusion of Law 10 in the Proposed Joint Findings of Fact and Conclusions of Law of CRRA and DEP staff.*
11. *This conclusion of law was not stipulated to by CCEJ. Please refer to Conclusion of Law 11 in the Proposed Joint Findings of Fact and Conclusions of Law of CRRA and DEP staff.*

Respectfully Submitted,

CONNECTICUT RESOURCES RECOVERY
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and

DEPARTMENT OF ENVIRONMENTAL
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**PERMIT
TO
CONSTRUCT AND OPERATE**

PERMITTEE'S NAME: Connecticut Resources Recovery Authority (CRRA)
FACILITY'S ADDRESS: 211 Murphy Rd., Hartford, CT
PERMIT No.: 0640734 - PC/PO

Pursuant to Section 22a-208a of the Connecticut General Statutes ("CGS") and Section 22a-209-4 of the Regulations of Connecticut State Agencies ("RCSA"), a Permit to Construct and Operate IS HEREBY ISSUED by the Commissioner of the Department of Environmental Protection ("Commissioner") to Connecticut Resources Recovery Authority ("CRRA"; "Permittee") for the solid waste ("Facility") located at 211 Murphy Rd., Hartford, CT. Subsequently, the Permit to Operate No. 0640171 issued on 3/13/92 is revoked for administrative purposes.

The Permittee is authorized to construct modifications and subsequently operate the Facility in accordance with the following documents and specifications incorporated herein by reference:

1. Application form dated 11/15/03, revised 11/21/05.
2. A binder submitted on 10/26/05 incorporating various updated documents, including:
 - Executive Summary.
 - Traffic Study, dated 10/21/05.
 - Operation and Management Plan (O&MP), revised 10/2005.
 - A set of 16 drawings, including the following:
 - Area Plan, dated 10/14/05, P.E. certified/prepared by DMJ Harris .
 - Site Plan, dated 10/14/05, P.E. certified/prepared by DMJ Harris.
 - Proposed Floor Plan, dated 10/11/05, prepared by Petersen Group.
 - Railroad Car Holding Area & Bale Storage Plan, dated 10/14/05, prepared by FCR.
 - Three (3) Flow Diagrams for glass, fiber and commingled containers.
3. A letter dated 12/7/05 from CRRA to the Department clarifying various storage activities and a P.E. certified drawing titled "Railroad Car Holding Area & Bale Storage Plan", dated 10/14/05, revised 12/2/05 and prepared by DML Harris for FCR, Inc.

A. GENERAL TERMS AND CONDITIONS

- 1 As used in this permit, the following definitions apply:

“Commingled” means a combination of source separated recyclable metal, glass, plastic, or a combination of source separated recyclable paper grades.

“Commissioner” means the Commissioner of the Department of Environmental Protection or the Commissioner’s designee.

“Day” means calendar day.

“Department” means the Department of Environmental Protection.

“P.E.” means Professional Engineer Licensed in the state of Connecticut.

“Processing” means the practice by which either the physical characteristics or the volume of solid waste accepted at the Facility is being altered through separating, sorting, baling, shredding, crushing, grinding, chipping, compacting, consolidation, transfer or reworking as part of the recycling operations.

“Residue” means all solid waste as defined in CGS Section 22a-207, other than recovered materials, remaining after handling and processing of the incoming waste stream.

2. The Permittee shall maintain records of all documents comprising and all data pertaining to the applications mentioned in this condition, as well as any supplemental information submitted to the Department in connection with such applications. Any inaccuracies found in the information submitted by the Permittee may result in revocation, reissuance, or modification of this permit, and civil or criminal enforcement actions.
3. The Permittee shall comply with all terms and conditions of this permit. This permit consists of the conditions contained herein and the specifications contained in the application documents, except where such specifications are superseded by the more stringent conditions contained herein. Violation of any provision of this permit is subject to enforcement action pursuant, but not limited to, CGS Sections 22a-6, 22a-208, 22a-225 and 22a-226.
4. To the extent that any term or condition of this permit is deemed to be inconsistent with any term or condition of any permit previously issued for this Facility, or with any specifications contained in the application or any other documents incorporated by reference in this permit, the terms and conditions of this permit shall control and remain enforceable against the Permittee.
5. The Permittee shall: (a) construct and/or operate the Facility in accordance with all applicable law, including this permit; and (b) make no changes to the specifications and requirements of this permit, except in accordance with law.
6. The Permittee shall submit for the Commissioner’s review and written approval all necessary documentation supporting any proposed physical/operational upgrades, improvements and/or minor changes in the Facility design, practices or equipment. The Commissioner may issue a written approval only if, in the Commissioner’s judgment, the proposed physical/operational upgrades, improvements and/or minor changes: (a) are deemed necessary for a better and more efficient operation of the Facility; (b) are not significantly changing the nature of the Facility, or its impact on the environment; and (c) does not warrant the issuance of a permit or authorization pursuant to CGS Section 22a-208.
7. The date of submission to the Commissioner of any document required by this permit shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this permit, 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. Any document or action which is due or required on a Saturday, Sunday or a legal state/federal holiday shall be submitted or performed by the next business day thereafter.

8. Nothing in this permit authorizes any person, municipality or authority to hinder municipal or regional solid waste recycling efforts. All activities conducted by the Permittee at the Facility shall be in accordance with the documents submitted as part of the application and in compliance with the adopted Connecticut State Solid Waste Management Plan.
9. Nothing in this permit shall affect the Commissioner's authority to institute any proceeding or to take any actions to prevent violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for violations of law.
10. Nothing in this permit shall relieve the Permittee of other obligations under applicable federal, state and local laws.
11. Any document, including, but not limited to any notice, which is required to be submitted to the Commissioner under this permit shall be signed by a duly authorized representative of the Permittee, as defined in Section 22a-430-3(b)(2) of the RCSA, and by the individual or individuals responsible for actually preparing such documents, 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 thereto, 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 in the submitted information may be punishable as a criminal offense." Any false statement in any document submitted pursuant to this permit may be punishable as a criminal offense in accordance with Section 22a-6 of the CGS, pursuant to Section 53a-157 of the CGS, and in accordance with any other applicable statute.
12. This permit is subject to, and in no way derogates from any present or future property rights or other rights or powers of the State of Connecticut and conveys no property rights in real estate or material, nor any exclusive privileges, and is further subject to, any and all public and private rights and to any federal, state or local laws or regulations pertinent to the Facility or activity affected thereby.
13. Unless otherwise specified, the documents required to be submitted under this permit shall be directed to Calin Tanovici of the Solid Waste Program, Waste Engineering and Enforcement Division, Bureau of Waste Management, Department of Environmental Protection, 79 Elm Street, Hartford, CT 06106-5127. As necessary, these documents will be routed to the appropriate enforcement, financial and/or legal staff for their final evaluation.

B. AUTHORIZATION TO CONSTRUCT

1. The Permittee is authorized to construct various modifications/improvements at the existing Facility, including: (i) expanding the existing processing building; (ii) installing new equipment for paper/cardboard processing; (iii) replacing existing equipment for processing of commingled containers; (iv) defining new locations/volumes for the

existing/proposed storage areas; (v) enclosing the railcar loading dock along the western side of the processing building.

2. The Permittee shall within thirty (30) days from the completion of the construction of the features described above, submit a written notification for the Commissioner's review and written approval. Such notification shall include at a minimum:
 - A notification from a P.E. certifying that the construction activities have been completed as approved.
 - Selected P.E. certified as-built drawings.

C. AUTHORIZATION TO OPERATE

1. The Permittee shall not exceed the processing / storage limits established by this permit. Solid waste, other than those listed herein, shall not be accepted, processed treated, stored transported or disposed off-site, or otherwise process at the Facility without prior written approval of the Commissioner.
2. Upon a written approval granted by the Commissioner pursuant to condition No. B.2., the Permittee is authorized to operate the Facility described under condition No. B.1.
3. The Permittee is authorized to operate the Facility in accordance with all applicable law, including this permit. Unless otherwise approved in writing by the Commissioner, the Permittee shall limit the operation of the Facility as follows:
 - Receiving: Monday - Friday (7:00 am - 4:00 pm) and Saturday (7:am - 2:00 pm)
 - Processing: Monday - Friday (7:00 am - 11:00 pm) and Saturday (7:am - 2:00 pm)
4. The Permittee shall process at the Facility no more than a total of 560 tons/day (TPD) received only from commercial haulers, as follows:
 - Commingled containers (CC): 210 TPD
 - Paper/Cardboard (P/C): 350 TPD
5. The Permittee shall store/handle solid waste at the Facility in accordance with the following specifications and limits:

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| Area | Waste Type | (cy) | Storage Specifications |
|--------|-----------------------|----------|-----------------------------------|
| A. | Received CC | 1,835 | piles/containers on tipping floor |
| B. | Received P/C | 1,710 | piles/containers on tipping floor |
| C. | Bales (CC and/or P/C) | 2,378 | on tipping floor |
| D. | Bales (CC and/or P/C) | 1,418 | in the loading dock area |
| E. | Bales (CC and/or P/C) | 504 | in rail cars |
| F. | Bales (CC and/or P/C) | 700 | in trucks |
| G. | Residue | 80 | in compactor |
| Total: | | 8,625 cy | |

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6. The Permittee shall:

- a. Store solid waste on-site in conformance with proper fire control measures. Routine maintenance and inspections of all fire control equipment shall be conducted in accordance with manufacturer's specifications.
 - b. Ensure that all solid waste accepted at the Facility is properly handled on-site, processed, stored and transported to markets or other solid waste processing or disposal facilities permitted to accept such solid waste.
 - c. Ensure that any unacceptable\incidental solid waste inadvertently received, sorted residue or solid waste which is unsuitable for processing at the Facility is: (1) promptly sorted, separated, isolated and temporarily stored in a safe manner prior to off-site transport; (2) recorded and reported in the quarterly report required by this permit; and (3) disposed at a facility lawfully authorized to accept such waste. A spare container shall be available for any storage emergency.
 - d. Provide expeditious notification about any emergency incident (explosion, accident, fire, release, or other significant disruptive occurrence) which: (1) damaged equipment or structures; (2) interrupts the operation of the Facility for greater than 24 hours; (3) results in an unscheduled Facility shutdown or forced diversion of solid waste to other solid waste facilities; (4) could reasonably create a source of pollution to the waters of the state; or (5) otherwise threatens public health. Such notification required under this condition shall: (a) be within 24 hours of the emergency incident; (b) be verified to the Solid Waste Program in the Waste Engineering and Enforcement Division of the Bureau of Materials Management and Compliance Assurance at (860) 424-3366, or at another current publicly published number for the Solid Waste Program, or by facsimile at (860) 424-4059; (c) be followed by a written report within 30 days of the emergency incident detailing the cause and effect of the incident, remedial steps taken and emergency backup used or proposed to be implemented; (d) be recorded in a log of emergency incidents reportable or not under this condition. In addition to the notification requirements above, the Permittee shall comply with all other applicable reporting or notification requirements regarding the emergency incident including but not limited to, reporting required by Section 22a-450 of the CGS.
 - e. Prevent the spillage of solid waste from transfer containers during on-site maneuvering/storage and off-site transport, cover each loaded container before transportation off-site and instruct the haulers to keep the containers covered during off-site transportation. Remove any litter from the Facility's premises and the surrounding properties on a daily basis.
 - f. Operate the Facility in a safe manner and control fire, odor, noise, spills, vectors, litter and dust emissions levels in continuous compliance with all applicable requirements, including OSHA.
 - g. Process, store or otherwise handle at the Facility all solid waste received in such a manner as to avoid any spillage, nuisance and protect the public health and the environment.
 - h. Maintain at the Facility's premises, and have available for review by the Commissioner, the manufacturer's operation and maintenance manuals for each major piece of fixed processing equipment (e.g. balers; conveyors; compactors; storage tanks) installed at the Facility.
7. The Permittee shall: (a) control all traffic related with the operation of the Facility in such a way as to mitigate queuing of vehicles off-site and excessive or unsafe traffic impact in the area where the Facility is located; and (b) ensure that, pursuant to RCSA Section

22a-174-18(b)(3)(C), trucks shall not be left idling for more than three (3) consecutive minutes.

- 8. The Permittee shall have an operator, certified pursuant to Section 22a-209-6 of RCSA, present at all times during Facility operation. All individuals under the supervision of such certified operator shall have sufficient training to identify waste received at the Facility which is not permitted to be received, or is unsuitable for processing, and take proper action in handling such waste.
- 9. The Permittee shall ensure that all recyclable wastes accepted are segregated so that no wastes are commingled which would or could potentially contaminate the recyclables, thereby rendering the recyclables unmarketable. Processing of wastes shall be conducted in such a manner that will not cause contamination of the recyclable product.
- 10. The Permittee shall maintain daily records as required by Section 22a-209-10(13) of RCSA and Sections 22a-208e and 22a-220 of CGS. Based on such records, the Permittee shall prepare monthly summaries including, but not limited to, the following information:
 - a. Origin, type and quantity of solid waste received.
 - b. Destination to which solid waste including any unacceptable waste were delivered from the Facility for disposal or recycling, including quantities delivered to each destination.

The monthly summaries required pursuant this condition shall be submitted quarterly directly to Waste Planning and Standards Division of the Bureau of Waste Management no later than January 31, April 30, July 31, October 31, of each year on forms prescribed by the Commissioner.

- 11. This permit shall expire five (5) years from the date of issuance and may be revoked, suspended, modified, renewed, or transferred in accordance with applicable laws.

Issued on this day of , 2006.

By _____
Commissioner

Permit No. 0640734 - PC/PO

Administrative Notes

Application No. 200300207

Status of this Permit:

Modifies Permit to Construct No. 0640145 issued on 8/2/91.

Revokes Permit to Operate No. 0640171 issued on 3/13/92 for administrative

purposes.

Permittee: Certified Mail #
City/Town Clerk: Certified Mail #