

VT SUPERIOR COURT
WASHINGTON UNIT
CIVIL DIVISION

AW-ORDER
2018 MAY 21 P 2:03

STATE OF VERMONT

SUPERIOR COURT
WASHINGTON UNIT

CIVIL DIVISION
Docket No. 663-11-14 Wncv

State of Vermont,)
)
Plaintiff,)
)
v.)
)
Moretown Landfill, Inc.,)
)
Defendant.)

FILED

CONSENT ORDER AND FINAL JUDGMENT ORDER

Based upon the Stipulation for the Entry of Consent Order and Final Judgment Order filed by the parties, Plaintiff, the State of Vermont, by and through Attorney General Thomas J. Donovan, Jr., on behalf of the Agency of Natural Resources and Natural Resources Board ("State"), and Defendant, Moretown Landfill, Inc ("MLI"), and pursuant to 10 V.S.A. § 8221 and the Court's inherent equitable powers, in order to resolve the allegations of the State's Complaint, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

PENALTIES

1. MLI shall pay a civil penalty of one hundred eighty thousand dollars (\$180,000.00) and shall also pay twenty thousand dollars (\$20,000.00) to fund a Supplemental Environmental Project ("SEP").

2. Payment of the \$180,000 civil penalty shall be by certified check payable to "Treasurer, State of Vermont," and shall be received at the following

address no later than thirty (30) calendar days after the date that this Consent Order is entered by signature of the Court:

Nicholas F. Persampieri
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05602

3. Payment of the \$20,000 to fund a SEP shall be by certified check payable to the "Vermont Solid Waste District Managers Association," and shall be received at the following address no later than thirty (30) calendar days after the date that this Consent Order is entered by signature of the Court:

Vermont Solid Waste District Manager's Association
Paul Tomasi,
NEKWMD
P.O. Box 1075
Lyndonville, VT 05851

4. The Vermont Solid Waste District Managers Association has agreed to administer the SEP, and has certified that the SEP funds shall be used to purchase residential compost bins, food scrap collection buckets, and kitchen counter-top compost containers, which will be sold to Vermonters at a discount as set forth in the Supplemental Environmental Project Certification attached hereto as Attachment A.

5. MLI agrees that in the event it publishes by any means, directly or indirectly, the identity or result of the SEP it has funded, it shall also include in that publication a statement that the SEP is a product of the settlement of an environmental enforcement action brought by the Attorney General.

6. MLI agrees that the funds directed to a SEP are not tax deductible and consequently shall not deduct, nor attempt to deduct any SEP expenditures from its tax obligations.

7. Failure to make any payment required by Paragraphs 1 - 3, above shall constitute a breach of this Consent Order, and interest shall accrue on the unpaid balance at 12% per year.

DISMISSAL OF COUNT TEN

8. Count Ten of the Complaint filed November 6, 2014 is hereby dismissed with prejudice.

MISCELLANEOUS

9. While pursuant to Paragraph 126 of the Stipulation for Entry of Consent Order and Final Judgment Order, the parties stipulate that MLI does not admit or deny liability for each of the violations alleged in Paragraphs 12-123 of the Stipulation for Entry of Consent Order and Final Judgment Order, the parties stipulate that the violations alleged therein are each deemed proved and established as prior violations for purposes of use in any future State proceeding that permits or requires consideration of MLI's past record of compliance, such as administrative or judicial enforcement actions for civil penalties calculated pursuant to 10 V.S.A. § 8010 and permit proceedings.

10. MLI hereby waives: 1) all rights to contest or appeal this Consent Order and Final Judgment Order ("Consent Order"); and 2) all rights to contest the

obligations imposed upon MLI under this Consent Order in this or any other administrative or judicial proceeding involving the State of Vermont.

11. This Consent Order is binding upon MLI and its successors and assigns.

12. Nothing in this Consent Order shall be construed to create or deny any rights in, or grant or deny any cause of action to, any person not a party to this Consent Order.

13. This Consent Order shall become effective only after it is signed by all parties and entered as an order of the Court. When so entered by the Court, this Consent Order shall become a Final Judgment Order.

14. Any violation of this Consent Order shall be deemed to be a violation of a judicial order, and may result in the imposition of injunctive relief and/or penalties, including penalties for contempt, as set forth in 10 V.S.A. Chapters 201 & 211, and 12 V.S.A. § 122.

15. Nothing in this Consent Order shall be construed as having relieved, modified, or in any manner affected MLI's obligations to comply with all other federal, state, or local statutes, regulations, permits or directives applicable to MLI.

16. This Consent Order and the Stipulation for Entry of Consent Order and Final Judgment Order set forth the complete agreement of the parties, and they may be altered, amended, or otherwise modified only by subsequent written agreements signed by the parties hereto or their legal representatives and, as to the Consent Order and Final Judgment Order, incorporated into an order issued by the

Superior Court, Washington Unit, Civil Division. Alleged representations not set forth in this Consent Order, whether written or oral, shall not be binding upon any party hereto, and such alleged representations shall be of no legal force or effect.

17. The Court hereby finds that the State and MLI have negotiated this Consent Order in good faith, that implementation of this Consent Order will avoid prolonged and complicated litigation between the parties, and that this Consent Order is fair, reasonable and in the State's interest. The Court hereby enters this Consent Order as an order of the Court and final judgment.

SO ORDERED, and ENTERED as FINAL JUDGMENT

Dated: May 21, 2018

Mary Miles Teachout
The Honorable Mary Miles Teachout
Superior Court Judge

ATTACHMENT A

SUPPLEMENTAL ENVIRONMENTAL PROJECT CERTIFICATION

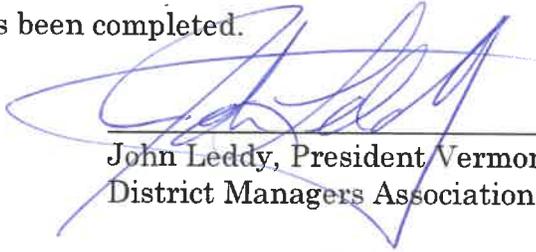
The Vermont Solid Waste District Managers Association (“VSWDMA”), submits this certification regarding its anticipated receipt of \$20,000 from Moretown Landfill, Inc. (“MLI”) for a Supplemental Environmental Project (“SEP Funds”) pursuant to a Consent Order and Final Judgment Order in *State of Vermont v. Moretown Landfill, Inc.*, Superior Court, Washington Unit, Docket No. 663-11-14-Wncv. The SEP is described in the writeup entitled 2017 Composting Supplies SEP attached hereto as Exhibit 1.

The VSWDMA is an unincorporated association. Its members are Solid Waste Management Districts created under 24 V.S.A. App. Part IV, and Waste Alliances created by inter-local agreement among member towns pursuant to 24 V.S.A. Chapter 121, each of which has authority to provide for management of solid waste generated in their respective member municipalities. The VSWDMA’s members are the Addison County Solid Waste Management District, Central Vermont Solid Waste Management District, Chittenden Solid Waste District, Great Upper Valley Solid Waste Management District, Lamoille Regional Solid Waste Management District, Northeast Kingdom Waste Management District, Northwest Vermont Solid Waste Management District, Windham Solid Waste Management District, Bennington County Solid Waste Alliance, Mad River Resource Management Alliance, Londonderry Group, and the Solid Waste Alliance Communities.

The VSWDMA agrees to administer the SEP, and certifies that the SEP Funds shall be used by its member Solid Waste Management Districts and Waste Alliances solely for purchase of residential compost bins, food scrap collection buckets, and kitchen counter-top compost containers (collectively "Compost Containers"), which shall be sold to Vermonters at a discount from retail price. Funds received from sale of Compost Containers shall be used to purchase additional Compost Containers until the funds are exhausted, Alternatively, anticipated revenue from sale of the Compost containers shall be applied to offset amounts from other sources spent on Compost Containers.

The VSWDMA shall provide ANR a written report no later than one year following its receipt of the SEP Funds, which shall include details as to: (1) the distribution of SEP Funds to its member Solid Waste Management Districts and Waste Alliances; (2) each expenditure of SEP Funds by the Solid Waste Management Districts and Waste Alliances, including the number of residential compost bins, food scrap collection buckets, and kitchen counter-top compost containers purchased in each transaction; (3) the number of residential compost bins, food scrap collection buckets and kitchen-counter-top compost containers sold to Vermonters; and (4) the prices charged for the Compost Containers; (5) if anticipated revenue is applied to offset amounts from other sources spent on Compost Containers, documentation of the amounts spent from other sources.

If the SEP has not been completed at the end of the one year period, the VSWDMA association shall provide ANR a follow-up written report annually, until such time as the SEP has been completed.



John Leddy, President Vermont Solid Waste District Managers Association

EXHIBIT 1

2018 Composting Supplies SEP

(1) Project Implementer

The Vermont Solid Waste District Manager's Association (VSWDMA) will be the implementer of the Supplemental Environmental Project (SEP).

(2) Geographic Area to Benefit from the Project

The VSWDMA represents over 85% of Vermont municipalities. Members include Addison County Solid Waste Management District (ACSWMD), Bennington County Solid Waste Alliance (BCSWA), Central Vermont Solid Waste Management District (CVSWMD), Chittenden Solid Waste District (CSWD), Greater Upper Valley Solid Waste Management District (GUVSWMD), Lamoille Regional Solid Waste Management District (LRSWMD), Londonderry Group, Mad River Resource Management Alliance (MRRMA), Northeast Kingdom Waste Management District (NEKWMD), Northwest Vermont Solid Waste Management District (NWSWD), Rutland County Solid Waste District (RCSWD), Solid Waste Alliance Communities (SWAC), Southern Windsor/Windham Counties Solid Waste Management District (SWWCSWMD), and Windham Solid Waste Management District (WSWMD).

(3) Project Description and Budget

Food scraps and other organic materials can comprise as much as a third of residential waste. Wasted food in the landfill creates methane, a greenhouse gas, which is 25 times more damaging than carbon dioxide. Food scraps do not need to be wasted in landfills, and can provide other benefits—like compost for gardens. To mitigate climate change, support statewide composting, farming, and anaerobic digestion jobs, the Universal Recycling law bans disposal of food waste in landfills and trash in July 2020.

To help Vermont residents comply with the landfill ban and divert food waste, the VSWDMA proposes to utilize SEP funds associated with the Moretown Landfill for the purchase of residential compost bins, food scrap collection buckets, and kitchen counter-top compost containers.

The funded items will be distributed to Vermonters at a discount by solid waste districts, alliances, and towns.

Timeline: May 2018 – May 31, 2019

Budget:

Item:	Per Unit Cost:	Number:	Subtotal:
Soil Saver Home Compost Bin	\$50	200	\$10,000
Sure-Close Kitchen Composter	\$6	400	\$2,400
5-gallon Plastic Bucket with Lid	\$15	506	\$7,590
TOTAL:			\$19,990

(4) Expected Project Benefits

- Reducing food waste in landfills can reduce odors and methane releases
- Reducing food waste also can lengthen the life of landfills and reduce the need for new ones.
- This project benefits residents by helping them comply with Vermont's Universal Recycling law and giving them an easy way to compost at home which potentially can save them money on their trash costs.

(5) Advertising

- In advertising (online, print, etc.) the availability of the food scrap equipment funded by the SEP, or the results of the project, the VSWDMA will state in a prominent manner that the project has been undertaken as part of the settlement of an ANR enforcement action with Moretown Landfill Inc.

(6) SEP Verification

- The VSWDMA verify the receipt of SEP funds by providing the Agency a confirming letter and a copy of the SEP check from the respondent.
- The VSWDMA will submit a final report upon completion of the SEP. VSWDMA will provide details describing tasks accomplished and deliverables met, adherence to project timeline, and any problems encountered in achieving deliverables. VSWDMA will provide a signed certification with the final project report indicating that SEP funds were used as intended