

Connecticut Department of
ENERGY &
ENVIRONMENTAL
PROTECTION

79 Elm Street • Hartford, CT 06106-5127

www.ct.gov/deep

Affirmative Action/Equal Opportunity Employ

STATE OF CONNECTICUT

V.

LINDEN CLEANERS, INC.

CEIL A. DANNA OR HER SUCCESSOR(S) IN TRUST, AS TRUSTEE OF THE CEIL A. DANNA REVOCABLE TRUST

CEIL A. DANNA OR HER SUCCESSOR(S) IN TRUST, AS TRUSTEE OF THE NON-EXEMPT MARITAL TRUST FBO CEIL A. DANNA UNDER ARTICLE IV.B.2.B OF THE ARTHUR C. DANNA REVOCABLE TRUST U/A/D/SEPTEMBER 27, 1991

CEIL A. DANNA OR HER SUCCESSOR(S) IN TRUST, AS TRUSTEE OF THE ESTATE TAX SHELTERED TRUST FBO CEIL A. DANNA AND DESCENDANTS UNDER ARTICLE IV.B.1 OF THE ARTHUR C. DANNA TRUST U/A/D/SEPTEMBER 27, 1991

CONSENT ORDER No. SRD-245

Date of Issuance: January 14, 2022

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

1. Linden Cleaners, Inc. ("Respondent") is a corporation organized under the laws of Connecticut with a business address of 22 Heights Road, Darien, Connecticut 06820, and mailing address of 26 Heights Road, Darien, Connecticut 06820.
2. From September 27, 1991 to current date Ceil A. Danna, in her capacity as the trustee of the Ceil A. Danna Revocable Trust, and from September 27, 1991 to February 28, 2006 Arthur C. Danna, in his capacity as trustee of the Arthur C. Danna Revocable Trust, ("Respondent") owned 22 Heights Road, Darien, Connecticut ("Site" or "the parcel" or "the property") as presently described in a warranty deed recorded at page 254 of volume 652 of the Town of Darien land records. For purposes of this Order, "Site" or "the parcel" or "the property" includes all releases or pollutants at and from 22 Heights Road, Darien, Connecticut.
3. From September 27, 1991 to current date Ceil A. Danna, in her capacity as the trustee of the Ceil A. Danna Revocable Trust, and from September 27, 1991 to February 28, 2006 Arthur C. Danna, in his capacity as trustee of the Arthur C. Danna Revocable Trust owned and/or leased retail facilities at the Site.
4. Pursuant to §22a-6u of the Connecticut General Statutes, the Department of Energy and Environmental Protection (the "Department") received a notice dated September 30, 1999 from Linden Cleaners, Inc. indicating pollution at and/or from the Site that included volatile organic compounds, specifically PCE at 240,000 ug/L in groundwater

beneath a building, which trigger notification of a significant environmental hazard (“SEH”).

5. Although the Department did not provide written acknowledgement of the SEH, Linden Cleaners addressed the notified hazard with the installation of a passive soil venting system in 2001.
6. The Department notified Linden Cleaners, Inc. in October 2010 requesting a status update of the venting system, and site investigation/remediation.
7. In November 2010, Linden Cleaners responded to the Department and submitted the results of indoor air quality sampling conducted within the Site building by Hygenix, Inc. in 2006 showing that PCE concentrations were not detected in the samples.
8. The Department notified Linden Cleaners in June 2013 requesting a status update of the venting system and site investigation/ remediation.
9. In July 2013, Linden Cleaners responded to the Department and submitted the results of additional indoor air quality sampling conducted within the Site building by Leggette, Brashears & Graham, Inc. (“LBG”) in 2013 showing PCE concentrations below the Department’s Target Indoor Air Concentrations.
10. In September 2013, the Department notified Linden Cleaners as to work that was needed to ensure control/abatement of the hazard and site investigation/remediation including a work plan for indoor air monitoring and a receptor survey.
11. In November 2013, Linden Cleaners responded to the Department and submitted the requested Work Plan prepared by LBG for approval. To date, Linden Cleaners has not received approval or comments on the Work Plan.
12. In January 2014, Linden Cleaners submitted to the Department a Receptor Survey and Phase II Groundwater Evaluation conducted by LBG.
13. In March 2018, the Department notified Linden Cleaners to evaluate the groundwater quality and extent of plume, on and off-site receptors, soil vapor intrusion and hazard control/mitigation and abatement efforts.
14. In June 2018, Linden Cleaners responded to the Department by submitting a report prepared by WSP USA, Inc. entitled Evaluation of Significant Environmental Hazard Conditions that documented Linden Cleaners’ efforts to evaluate the groundwater quality and extent of plume, on and off-site receptors, soil vapor intrusion and hazard control/mitigation and abatement.

15. Reports documenting site investigation activities identify that the groundwater at and/or from the Site is polluted with PCE at concentrations exceeding the standards established by the Regulations of Connecticut State Agencies §22a-133k-1 through 22a-133k-3, the Remediation Standard Regulations ("RSRs").
 16. The degree and extent of pollution at the site is not fully delineated and therefore compliance with the RSRs is indeterminate.
 17. By virtue of the above, from at least September 27, 1991 to present, Respondent has been maintaining a facility or condition which reasonably can be expected to create a source of pollution to the waters of the state in violation of §22a-432 of the Connecticut General Statutes, has maintained a discharge of wastes in violation of §22a-430 of the Connecticut General Statutes.
 18. By agreeing to the issuance of this Consent Order, the Respondent makes no admission of fact or law with respect to the matters addressed herein, other than the facts asserted in paragraphs A.1 through A.14, inclusive.
- B. The Commissioner, acting under §22a-6, §22a-424, §22a-425, §22a-427, §22a-430, §22a-431, §22a-432, §22a-433 and §22a-449 of the Connecticut General Statutes, orders Respondent as follows:
1.
 - a. Within thirty (30) days from the issuance of this order, submit to the Commissioner a plan concerning on-site soil vapor monitoring for contaminants of concern and within thirty (30) days of Commissioner approval of such plan complete on-site soil vapor monitoring for contaminants of concern in accordance with such Commissioner approved plan, and thereafter continue semi-annual seasonal heating and cooling on-site soil vapor monitoring in accordance with such Commissioner approved plan, until such hazard has been abated as described in §22a-6u of the Connecticut General Statutes.
 - b. Within six (6) months from the issuance of this order, Respondent shall fully delineate and evaluate risk to off-site receptors through groundwater sampling, and provide a plan for mitigation and monitoring, including but not limited to soil vapor monitoring, at any additional properties affected by the hazard condition noted in the above findings as described in §22a-6u of the Connecticut General Statutes. Notwithstanding the foregoing, the Respondent shall not be considered in noncompliance with this subsection of the order concerning an off-site property in the event that Respondent, after best efforts acceptable to the Commissioner, is not granted access to such off-site property.
 - c. Respondent shall immediately and no later than thirty (30) days notify the Department staff person assigned to this Site, on a form prescribed by the commissioner, as described in §22a-6u of the Connecticut General Statutes in the event that any additional hazard conditions as described in §22a-6u of the

Connecticut General Statutes are discovered.

- d. Within three (3) months of actions specified in B.1.b., Respondent shall mitigate any additional hazard conditions described in §22a-6u of the Connecticut General Statutes in accordance with mitigation as described in §22a-6u of the Connecticut General Statutes.
 - e. Within three (3) months of mitigating a hazard condition pursuant to B.1.d., and annually thereafter until Final Verification, provide update reports to the Department staff person assigned to this Site, concerning step B.1.d., including an evaluation as to whether actions taken pursuant to B.1.d. are effective in mitigating the hazard condition.
 - f. Annually each June until Final Verification, submit reports to the Department staff person assigned to this Site, concerning the passive soil venting system installed at the Site in 2001, including an evaluation, that includes but is not limited to soil vapor sampling, as to whether that system is effective in mitigating vapors into the overlying structure, and any off-site measures and monitoring that are needed to mitigate vapor migration into over lying structures.
2. **Consultant Retention.** On or before thirty (30) days of issuance of this consent order Respondent shall retain an LEP to prepare documents and implement or oversee the actions required by paragraph B.2. through B.8. of this consent order and shall by that date, notify the Commissioner in writing of the identity of such LEP. LEP retention is needed for all actions under B.1.a through f. Respondent shall retain one or more LEP(s) acceptable to the Commissioner until this consent order is fully complied with, and within ten (10) days after retaining any LEP other than the one originally identified under this paragraph, Respondent shall notify the Commissioner in writing of the identity of such other LEP. Respondent shall submit to the Commissioner a description of a LEP's education, experience and training which is relevant to the work required by this consent order within ten (10) days after a request for such a description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.
 3. **Completion of Investigation.** Within two (2) years after the issuance of this consent order, the Respondent shall complete the investigation of releases at and from the entire parcel and submit to the Commissioner a final site investigation report ("COI") and Completion of Investigation Transmittal Form ("COI-TF") signed and sealed by the LEP retained pursuant to paragraph B.2 of this order documenting that such investigation has been completed in accordance with prevailing standards and guidelines. Notwithstanding the foregoing, the Respondent shall not be considered in noncompliance with this subsection of the order concerning an off-site property in the event that Respondent, after best efforts acceptable to the Commissioner, is not granted access to such off-site property.
 4. **Submission of Remedial Action Plan.** Within three (3) years after the issuance of this consent order, the Respondent shall submit to the Commissioner a remedial action plan ("RAP") based on the COI for the property. Respondent shall submit the RAP under cover of a Remedial Action Plan Transmittal Form ("RAP-TF") signed and sealed by the LEP. The RAP shall

include a schedule to initiate and complete all necessary remedial action for all releases at and emanating from the parcel in accordance with the RSRs.

5. **Public Notice.** Respondent shall provide public notice of remediation in a manner consistent with § 22a-134a(i) of the Connecticut General Statutes no fewer than forty-five (45) days prior to the initiation of remediation. Respondent shall submit a copy of the public notice of remediation to the Commissioner within thirty (30) days after publication of said notice.
6. **Progress Reports.** Commencing three (3) years after issuance of this consent order and on an annual basis thereafter until the Respondent has fully complied with this consent order, Respondent shall submit to the Commissioner written progress reports. The reports shall describe the actions Respondent has taken to comply with this consent order concerning the remediation and monitoring of the parcel.
7. **Final Verification.** The Respondent shall submit to the Commissioner a Final or Interim Verification for the parcel as follows:
 - a. Within eight (8) years after the issuance of this consent order, the Respondent shall have investigated and remediated the parcel sufficiently to support a verification as defined by § 22a-134(19) ("Final Verification") of the Connecticut General Statutes. The Respondent shall submit to the Commissioner on a form prescribed by the Commissioner such Final Verification signed and sealed by the LEP retained pursuant to paragraph B.1, above. Respondent shall submit with the Final Verification a report prepared by such LEP that describes the investigation and remediation that was performed ("Final Verification Report").
 - b. If the Respondent cannot submit a timely Final Verification because groundwater remediation has not been completed, then, within eight (8) years after issuance of this consent order, the Respondent shall have investigated and remediated the parcel sufficiently to support an Interim Verification as defined by § 22a-134(28) of the Connecticut General Statutes ("Interim Verification"). The Respondent shall submit to the Commissioner on a form prescribed by the Commissioner such Interim Verification signed and sealed by the LEP retained pursuant to paragraph B.1, above. Respondent shall submit with the Interim Verification a report prepared by such LEP that demonstrates compliance with RSR criteria for all environmental media, except groundwater. The Interim Verification Report shall document that (A) the investigation has been performed in accordance with prevailing standards and guidelines, (B) the remediation has been completed in accordance with the RSRs, except that, for remediation standards for groundwater, the selected remedy is in operation but has not achieved the remediation standards for groundwater, (C) identifies the long-term remedy being implemented to achieve groundwater standards, the estimated duration of such remedy, and the ongoing operation and maintenance requirements for continued operation of such remedy, and (D) there are no current exposure pathways to the groundwater area that have not yet met the remediation standards. Within thirty (30) days of completion of the groundwater remedy presented in the Interim Verification Report, and completion of groundwater monitoring to demonstrate compliance with the groundwater standards, Respondent shall submit a

Final Verification Report and a Final Verification, signed and sealed by the LEP, on a form prescribed by the Commissioner.

- c. The Commissioner may conduct an audit of any action, submittal or verification submitted pursuant to this order. Any such audit of a verification submitted under this order shall be commenced by the Commissioner no later than one (1) year after the date of submittal of such verification.
8. Notification of certain conditions. The Respondent shall immediately inform the Commissioner in writing if it discovers any pollution on or emanating from the property that meets any condition described in §22a-6u(b)(1), (c)(1), (d)(1), (e)(1), (f)(1), (g)(1) or (h)(1) of the Connecticut General Statutes. The Respondent shall comply with this paragraph even though the property is not a "parcel" as defined in §22a-6u(3) of the Connecticut General Statutes.
9. Submission of Supporting Documentation. Within ten (10) days of receipt of a written request from the Commissioner, the Respondent shall provide to the Commissioner copies of all technical plans, reports and other supporting documentation relating to the investigation and remediation of the parcel as specified in the Commissioner's written request.
10. Compliance with laws and regulations. Respondent shall comply with the environmental laws and regulations governing the management of solid and hazardous wastes, including but not limited to, §22a-208a, §22a-208c and §22a-449(c) of the Connecticut General Statutes, and §22a-209-4, §22a-209-7, §22a-209-8, and §22a-449(c)-100 through 119, §22a-449(c)-11 of the Regulations of Connecticut State Agencies. Respondent shall not conduct activities requiring a permit from the Commissioner without first having the requisite permit(s) issued by the Commissioner.
11. Full compliance. Respondent shall not be considered in full compliance with this consent order until all actions required by this consent order have been completed to the Commissioner's satisfaction and the Commissioner issues a written notice that no audit of the Final Verification will be conducted, or the Commissioner conducts an audit of the Final Verification and issues written findings that the Final Verification was appropriate and is thereby accepted. If the Commissioner determines the Final Verification is not appropriate and thereby rejects the Final Verification, Respondent is not in compliance with this consent order.
12. Sampling. All sampling shall be performed in accordance with procedures specified or approved in writing by the Commissioner, or, if no such procedures have been specified or approved, in accordance with most recent final version of the EPA publication SW-846, entitled "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," the most recent final version of the Department's "Site Characterization Guidance Document," and relevant policies and guidelines issued by the Commissioner.
13. Sample analyses. All sample analyses which are required by this consent order and all reporting of such sample analyses shall be conducted by a laboratory certified by the Connecticut Department of Public Health and approved to conduct such analyses.

14. Reasonable Confidence Protocols. When the Department has published a Reasonable Confidence Protocol for a specific analytical method, such Reasonable Confidence Protocol shall be used when samples are evaluated using that analytical method. When samples have been evaluated using an analytical method for which a Reasonable Confidence Protocol has been published, a properly completed laboratory Quality Assurance/Quality Control certification form, certified by the laboratory must be provided to the Commissioner with the analytical data.

In cases where samples are to be evaluated using a method for which a Reasonable Confidence Protocol has not been published, it shall be demonstrated to the satisfaction of the Commissioner, before analytical data generated using such a method can be used to satisfy the requirements of this Consent Order, that such method includes a level of quality control and documentation equivalent to the standards specified in the Reasonable Confidence Protocols for other, similar methods.

15. Reporting limits. Reporting limits shall be established at a concentration which is less than applicable criterion for a substance contained in, or specified pursuant to, the RSRs. The laboratory reporting limit for the analysis of all samples shall:

- a. Not be artificially raised or lowered; and
- b. Be equivalent to the concentration of the lowest standard used to calibrate the instrument actually analyzing a sample, provided such instrument has been calibrated in accordance with a method specified in an Reasonable Confidence Protocol or otherwise approved by the commissioner after consultation with the Commissioner of Public Health; or
- c. Be equivalent to the concentration of a low-level reporting standard, as specified in an Reasonable Confidence Protocol or otherwise approved by the commissioner after consultation with the Commissioner of Public Health.

The Reporting Limit for a given sample shall be corrected for specific sample weight or volume, and dilutions, and, for soil and sediment samples moisture content (reported as dry weight).

When analyzing a sample, if due to instrument limitations or matrix interference the laboratory reporting limit for a substance is greater than the applicable RSR criterion for such substance, alternative analytical methods, sample preparation procedures or alternative instrumentation shall be evaluated and a plan shall be submitted for the Commissioner's review and written approval to attempt to achieve appropriate reporting limits.

16. Analytical Data Quality and Usability. All analytical data used to comply with this consent order and the RSRs shall be scientifically valid and defensible, with a level of precision, accuracy, and sensitivity commensurate with its intended use. All analytical data submitted shall include an analytical data quality assessment and data usability evaluation prepared by individuals qualified to make such assessment or evaluation; and

If the commissioner determines that analytical data is not scientifically valid and defensible, or not of a sufficient level of precision, accuracy, and sensitivity to support the intended use of the data, the Commissioner may determine that the requirements of this consent order have not been satisfied.

17. 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 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 (30) 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.
18. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
19. Dates. The date of "issuance" of this consent order is the date the consent order is deposited in the U.S. mail or personally delivered, whichever is earlier. 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 deposited in the U.S. mail or is personally delivered, 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 by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.
20. 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 Respondent or, if Respondent is not an individual, by Respondent's responsible corporate officer, general partner, or proprietor, or a duly authorized representative of such person, as those terms are defined in §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and each such individual 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 I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."

21. 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.
22. False Statements. Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
23. Notice of transfer; liability of Respondent. Until Respondent has fully complied with this consent order, Respondent shall notify the Commissioner in writing no later than fifteen (15) days after transferring all or any portion of the facility, the operations, the parcel or the business which is the subject of this consent order or after obtaining a new mailing or location address. Respondent's obligations under this consent order shall not be affected by the passage of title to any property to any other person or municipality.
24. 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 those described in this consent order. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this consent order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented any pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate pollution.
25. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
26. 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.
27. Access to Parcel. Any representative of the Department may enter the parcel without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.
28. No effect on rights of other persons. This consent order neither creates nor affects any rights of persons that are not parties to this consent order.
29. Notice to Commissioner of changes. Within fifteen (15) 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.
30. 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

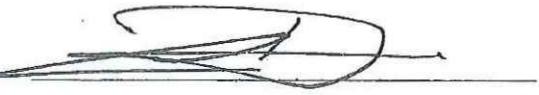
order or of any document required hereunder, Respondent shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, Respondent shall submit in writing the date, time, and duration of the noncompliance and 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.

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

Jeffrey Wilcox, Environmental Analyst 3
Department of Energy and Environmental Protection
Bureau of Water Protection and Land Reuse
Remediation Division
79 Elm Street
Hartford, Connecticut 06106-5127

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.

LINDEN CLEANERS, INC.

BY: 

DATE: 11/8/21

CRAIG DANNA	TRUSTEE
-------------	---------

(Insert name of individual with authority to bind Respondent to terms of consent order) (Insert individual's title)

CEIL A. DANNA OR SUCCESSOR(S) IN TRUST, IN HER CAPACITY AS TRUSTEE OF THE CEIL A. DANNA REVOCABLE TRUST

Consent Order # SRD-245

Page 11 of 11

BY:


Craig Danna

DATE:

11/8/21

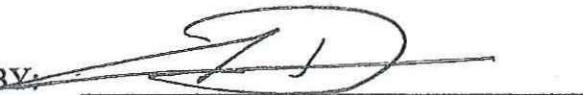
(Insert name of individual with authority to bind Respondent to terms of consent order)

Craig Danna TRUSTEE

(Insert individual's title)

CEIL A. DANNA OR SUCCESSOR(S) IN TRUST, IN HER CAPACITY AS TRUSTEE OF THE NON-EXEMPT MARITAL TRUST FBO CEIL A. DANNA UNDER ARTICLE IV.B.2.B OF THE ARTHUR C. DANNA REVOCABLE TRUST U/A/D/SEPTEMBER 27, 1991 AND THE ESTATE TAX SHELTERED TRUST FBO CEIL A. DANNA AND DESCENDANTS UNDER ARTICLE IV.B.1 OF THE ARTHUR C. DANNA TRUST U/A/D/SEPTEMBER 27, 1991

BY:


Craig Danna

DATE:

11/8/21

(Insert name of individual with authority to bind Respondent to terms of consent order)

Craig Danna TRUSTEE

(Insert individual's title)

Issued as a final order of the Commissioner of Energy and Environmental Protection.

Botsay Wingfield for
Katherine S. Dykes
Commissioner

January 14, 2022
Date

ORDER NO. SRD-245
TOWN OF DARIEN
LAND RECORDS

