



Connecticut Department of

ENERGY &

ENVIRONMENTAL
PROTECTION

79 Elm Street • Hartford, CT 06106-5127

www.ct.gov/deep

Affirmative Action/Equal Opportunity Employer

ORDER #SRD-231

STATE OF CONNECTICUT

V.

The Southern Connecticut Gas Company

CONSENT ORDER

- A. With the agreement of The Southern Connecticut Gas Company ("SCG" or "Respondent"), the Commissioner of Energy and Environmental Protection ("the Commissioner") finds:
1. Respondent is a Connecticut company which is the owner of property located at 347 Chapel Street in New Haven, Connecticut.
 2. Respondent has a business address of 60 Marsh Hill Road, Orange, CT. 06477
 3. The Site consists of two separate parcels ("the Site"). The first parcel is owned by the Respondent and is located at 347 Chapel Street in New Haven, Connecticut, more fully described in the New Haven land records as Lot #00100, Block #0557 on Map #178 in the New Haven Tax Assessor's office. The second parcel is owned by Simkins Industries Inc. and is located at 259 East Street, more fully described in the New Haven land records as Lot#: 00100, Block#: 0567, Map#: 179, in the New Haven Tax Assessor's office.
 4. Respondent has owned the parcel at 347 Chapel Street in New Haven since January 3, 1967. From 1967 until 1994, the Chapel Street parcel was used by Respondent as an operations center and maintenance facility.
 5. A manufactured gas plant ("MGP") was constructed on Site and gas production began in 1861. Coal gasification continued at the Site until the middle 1960's. Related operations at the Site during this time included a tank farm, an ammonia plant, a gas holder area, subsurface utilities, and tar processing and storage. A railroad right-of-way has and does bisect the Site.
 6. Respondent has performed a number of environmental investigations and remedial activities at the Site since 1985. These environmental investigations have identified pollution of soil and groundwater resulting from historic activities at the Site as referenced in paragraph A. Contaminants identified in the environmental investigations performed by Respondent include- but are not limited to petroleum,

coal tar, cyanide, polycyclic aromatic hydrocarbons, chlorinated hydrocarbons, SVOCs, ammonia, and metals.

7. The DEEP Emergency Response and Spill Prevention Division (ERSPD) has received multiple notifications from Respondent of spills, releases and discharges that have occurred resulting in the pollution of soil and groundwater at the Site and pollution to the waters and sediments of the Mill River.
 8. The multiple notifications referenced in paragraph A.9. include two reports by Respondent in 2008 and 2014, when coal tar wastes that had been historically deposited at the Site were identified in, and as having entered, the Site storm drain system installed in connection with the activities referenced in paragraph A.4. and as moving through a pipe and discharged to the waters and sediments of the Mill River.
 9. After each of the 2008 and 2014 reports of coal tar wastes entering the Mill River, Respondent performed multiple interim response actions in an attempt to stop the discharge of coal tar wastes, deployed and maintained containment and sorbent boom on the Mill River to contain and remove sheen, and modified the storm drain system in an attempt to prevent historical coal tar wastes from entering the storm drain system and the Mill River.
 10. By virtue of above, Respondent has caused pollution to the waters of the State by allowing coal tar waste at the Site to enter the storm drain system at the site and discharge to the Mill River in violation of §22a-427 of the Connecticut General Statutes.
 11. By virtue of above, Respondent caused a discharge of pollution to the waters of the State for which Respondent does not have a permit from the Commissioner under section §22a-430 of the Connecticut General Statutes.
 12. By virtue of above, Respondent has created or is maintaining a facility or condition which reasonably can be expected to create a source of pollution to the waters of the State and is the owner of the land from which a source of pollution emanates.
 13. By agreeing to the issuance of this consent order, 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.9.
- B. With the agreement of Respondent, the Commissioner, acting under §22a-6, §22a-424, §22a-427, §22a-430, and §22a-432 of the Connecticut General Statutes, orders Respondent as follows:
1.
 - a. Respondent shall cease all discharges to the waters of the State for which Respondent does not have a permit from the Commissioner under section 22a-430 of the

Connecticut General Statutes.

- b. Within thirty (30) days from the issuance of this consent order, Respondent shall retain one or more licensed environmental professionals (LEPs), currently licensed pursuant to CGS §22a-133v, to prepare the documents and implement or oversee the actions required by this consent order and shall, by that date, notify the Commissioner in writing of the identity of such LEPs. Respondent shall retain one or more qualified LEPs until this consent order is fully complied with, and, within ten (10) days after retaining any LEP other than 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.
 - c. Unless an alternative schedule is approved by the Commissioner, on or before ninety (90) days from the issuance of this consent order, Respondent shall submit for the Commissioner's review and written approval a plan for management practices for the prevention of pollution discharging to the Mill River through the storm water system at the site. (the "Mill River Pollution Prevention Plan").
- 2.
- a. On December 4, 2017 the Department approved a report titled "Investigation and Remediation Work Scope and Estimated Schedule, Chapel Street Former MGP Site, 347 Chapel Street, New Haven, CT." (The "Scope and Schedule"). The Scope and Schedule presents a comprehensive scope of work and schedule to complete a phased investigation for pollution on and off the Site. The Respondent shall perform the work identified in the Scope and Schedule in accordance with the schedule therein, unless otherwise approved by the Commissioner in writing. The approved Scope and Schedule is identified as "Attachment A" to this consent order.
 - b. Scope(s) of Study. In accordance with the approved Scope and Schedule and unless another schedule is approved by the Commissioner, Respondent shall submit for the Commissioner's review and written approval Scope(s) of Study, for each operable unit for the investigation of the activities described in the Scope and Schedule identified in paragraph B.2.a., to determine the potential impact of such activities on human health and the environment, both on the Site and off the Site, including, but not limited to, the existing extent and degree of soil, sediment, ground water and surface water pollution. Such Scopes of Study shall include, at a minimum:
 - (1) the proposed locations and depths of ground water monitoring wells and soil and surface water sampling; and
 - (2) a proposed sampling and analytical program, including at least the parameters to be tested, sampling and analytical methods, and quality assurance and quality control procedures.

- (3) A schedule for conducting the investigation required by this paragraph of the consent order. The schedule shall also include a date by which the report required by paragraph B.2.e. of this consent order will be submitted to the Commissioner.
- c. Performance of Investigation.
- (1) Respondent shall perform the investigation and other actions specified in the approved Scopes of Study in accordance with the approved Scopes of Study and the approved schedule.
- (2) Respondent shall notify the Commissioner in writing of the date and time of installation of monitoring wells and of each soil, sediment and water sampling event at least six business days prior to such installation or sampling.
- d. Supplemental Plan and Investigation. If the investigation carried out under an approved Scope of Study does not fully characterize the extent and degree of soil, sediment, surface water and ground water pollution to the satisfaction of the Commissioner, additional investigation shall be performed in accordance with a supplemental plan and schedule approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted for the Commissioner's review and written approval on or before ninety (90) days after notice from the Commissioner that they are required. Respondent shall notify the Commissioner in writing of the date and time of installation of monitoring wells and of each soil, sediment and water sampling event at least six business days prior to such installation or sampling.
- e. Investigation Report and Remedial Action Plan. In accordance with the schedules approved by the Commissioner pursuant to paragraph B.2.a., of this consent order, Respondent shall submit for the Commissioner's review and written approval a comprehensive and thorough report which describes in detail the investigation performed pursuant to paragraphs B.2.b. and B.2.c. of this consent order, and which:
- (1) defines the existing and potential extent and degree of soil, sediment, surface water and ground water pollution which is on, is emanating from or has emanated from the Site;
- (2) evaluates the alternatives for remedial actions to abate such pollution in accordance with the standards adopted pursuant to §22a-133k of the Regulations of Connecticut State Agencies and evaluates alternatives for remedial action to abate sediment as stated in the Scope and Schedule document. This evaluation shall include, but not be limited to, any alternative specified by the Commissioner;
- (3) states in detail the most expeditious schedule for performing each alternative;

- (4) lists all permits and approvals required for each alternative, including, but not limited to any permits required under §§ 22a-42a, 22a-342, 22a-361, or 22a-430 of the Connecticut General Statutes;
 - (5) proposes a preferred alternative with supporting justification therefor; and
 - (6) proposes a detailed remedial action plan and schedule to perform the preferred remedial actions. The schedule required by this paragraph shall include a schedule for applying for and obtaining all permits and approvals required for such remedial actions.
- f. Submission of Monitoring Plan. Unless an alternative schedule is approved by the Commissioner, on or before sixty (60) days after the Commissioner has approved a remedial action alternative, Respondent shall submit for the Commissioner's review and written approval:
- (1) a plan for soil, sediment, surface water and ground water monitoring to determine the degree to which the approved remedial actions have been effective; and
 - (2) a schedule for performing the approved monitoring program.
- g. Permits.
- (1) Unless an alternative schedule is approved by the Commissioner, on or before sixty (60) days after the Commissioner has approved a remedial action plan, pursuant to paragraph B.2.e. of this consent order, the Respondent shall apply for all permits and approvals (including any variances or other requests requiring Commissioner approval pursuant to the RSRs) that are necessary to carry out the remedial action approved by the Commissioner.
 - (2) Respondent shall ensure that such applications are complete and shall diligently pursue the issuance of such permits and approvals. Should the Commissioner request additional information as part of the permit and approval review and evaluation process, such information shall be submitted on or before thirty (30) days of receiving a written request from the Commissioner.
- h. Notice. On or before ten (10) days after receipt of any required permit or approval, Respondent shall submit to the Commissioner notice of receiving such permit or approval, and shall, upon the Commissioner's written request, submit a copy of such permit.
- i. Performance of remedial actions.
- (1) Respondent shall perform the approved remedial actions in accordance with the

plan and schedule approved pursuant to paragraph B.2.e.(6) of this consent order.

(2) Unless an alternative schedule is approved by the Commissioner, on or before thirty (30) days of completing such remedial actions, Respondent shall certify to the Commissioner in writing that the actions have been completed as approved.

j. Monitoring.

(1) Respondent shall perform the monitoring program approved pursuant to paragraph B.2.f. of this consent order to determine the effectiveness of the remedial actions. Such monitoring shall be conducted in accordance with the schedule approved pursuant to paragraph B.2.f. of this consent order.

(2) On a schedule established by the Commissioner in writing, or, if no such schedule is established, on a quarterly basis beginning no later than thirty (30) days after initiation of the approved remedial actions, Respondent shall submit for the commissioner's review and written approval a report describing the results of the monitoring program during that quarter or reporting period.

k. Additional remedial actions, measures and reporting. If the approved remedial actions do not result in the prevention and abatement of soil, sediment, surface water and ground water pollution to the satisfaction of the Commissioner, additional remedial actions, measures for monitoring and reporting on the effectiveness of those actions shall be performed in accordance with a supplemental plan and schedule approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the Supplemental Plan and Schedule shall be submitted for the Commissioner's review and written approval on or before 90 days after notice from the Commissioner that such plan and schedule are required.

l. On a schedule established by the Commissioner or, if no such schedule is established, on a quarterly basis beginning no later than (90) ninety days after initiation of the approved remedial actions or, as applicable supplemental remedial actions, Respondent shall submit for the Commissioner's review and written approval a report describing the results to date of the monitoring program to determine the effectiveness of the remedial actions.

m. Respondent may request that the Commissioner approve, in writing, revisions to any document approved hereunder in order to make such document consistent with law or for any other appropriate reason.

n. Progress reports: Annually and continuing until all actions required by this consent order have been completed as approved and to the Commissioner's satisfaction, Respondent shall submit a progress report to the Commissioner describing the actions which Respondent has taken to date to comply with this consent order.

- o. 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 as approved and to the Commissioner's satisfaction.
- p. Civil penalty. On or before 60 days after issuance of this consent order, Respondent shall pay a penalty of \$57,000 as the total civil penalty to be sought by the Commissioner for all allegations alleged above in section A of this consent order.
- q. Payment of penalties. Payment of penalties under this consent order shall be mailed or personally delivered to the Department of Energy and Environmental Protection, Bureau of Financial and support Services, Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to the Connecticut Department of Energy and Environmental Protection. The check shall state on its face, "Bureau of Water Protection and Land Reuse, Remediation Division Civil Penalty" and the consent order number identified on the first page of this Consent Order.
- r. Sampling and sample analyses. All sampling and 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 to conduct such analyses. All sampling and sample analyses performed under this order 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 EPA document SW-846. Unless otherwise specified by the Commissioner in writing, the value of each parameter shall be reported to the maximum level of precision and accuracy specified in the applicable protocol, and if no such level is specified, to the Analytical Detection Limit, as defined in R.C.S.A. Section 22a-133k-1(a)(1).
- s. Approvals. All submittals required by paragraphs B.2.b. through and including B.2.g. with respect to approvals pursuant to the RSRs, and B.2.i. through and including B.2.l., of this Consent Order shall be stamped and signed by an LEP, regardless of whether or not the document is submitted for Commissioner approval. 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 90 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.

In the Commissioner's sole discretion, the Commissioner may identify in writing that

any particular submittal which is stamped and signed by an LEP does not require Commissioner's review and approval in order for Respondent to proceed with implementing the next scheduled action. In any such event, Respondent shall implement the next required activity and schedule, using the date of submittal as the start date for the next scheduled action. In any such event, the Commissioner reserves the right to audit any such submittal and the work related to it, at any time, and to require any corrective action necessary to complete investigation or remediation.

- t. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner. 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. "Hazardous substances: shall be defined as that term is defined in 42 U.S.C. §9601, but shall not include any substance regulated as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act. "Underground storage tank system: shall be defined as that term is defined in RCSA §22a-449(d)-101(d)(63). "Petroleum" shall be defined as that term is defined in RCSA §22a-449(d)-101(d)(48)(b) and shall include all of the item listed as a "regulated substance" in RCSA §22a-449(d)-101(d)(48)(b).
- u. Dates. The date of submission to the Commissioner of any document required by this consent order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this consent order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is 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.
- v. 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 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 is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other

applicable law."

- w. Noncompliance. This consent order is a final order of the Commissioner with respect to the matters addressed herein, and is non-appealable and immediately enforceable. Failure to comply with this consent order may subject Respondent to an injunction and penalties.
 - x. False statements. Any false statement in any information submitted pursuant to this consent order is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
 - y. 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 15 days after transferring all or any portion of the facility, the operations, the site 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.
 - z. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties, 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 past, present, or future violations of law. 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 pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate violations or pollution.
- aa. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
 - bb. 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.
 - cc. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the site without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.
 - dd. No effect on rights of other persons. This consent order neither creates nor affects any rights of persons or municipalities that are not parties to this consent order.
 - ee. Notice to Commissioner of changes. Within 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.

- ff. 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.
- gg. 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:

John Duff, Environmental Analyst
Department of Energy and Environmental Protection
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 Respondent to the terms and conditions of the consent order.

The Southern Connecticut Gas Company

BY:


Anthony Marone
CEO & President of UIL Holdings Corp.

Date:

12/12/17

BY:


Steven P. Favuzza
Vice-President, Controller & Treasurer of UIL Holdings Corp.

Date:

12/13/17

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

Dated

January 5, 2018


Robert Kaliszewski
Deputy Commissioner