

**OFFICE OF ADJUDICATIONS**

***IN THE MATTER OF*** : ***ORDER NOS. WC-5288  
AND WC-5287***

***TOWNS OF BOLTON AND VERNON*** : ***DECEMBER 18, 2002***

**FINAL DECISION**

The parties have agreed to resolve the consolidated appeals of the above-captioned matter by agreement as evidenced by the attached *Consent Orders*, which the parties and the Commissioner have signed. I hereby issue these *Consent Orders* as the *Final Decision* in this matter.

December 18, 2002  
Date

/s/ Janice B. Deshais  
Janice B. Deshais, Hearing Officer

STATE OF CONNECTICUT :  
V. :  
TOWN OF BOLTON :

CONSENT ORDER

- A. With the agreement of the Town of Bolton, the Commissioner of Environmental Protection ("the Commissioner") finds:
1. The Town of Bolton (the "Municipality") submitted to the Commissioner the report entitled *A Draft Facilities Plan for Wastewater Disposal in the Bolton Lakes Area* dated April 1992 by A.R. Lombardi, Inc. This plan identified specific areas within the boundaries of the Municipality which could not support onsite wastewater treatment and required conveyance of the wastewater to an offsite facility for treatment and disposal.
  2. The Municipality submitted to the Commissioner the report entitled *Draft Report, Bolton Lakes Wastewater Management Study, Prepared for the Towns of Vernon & Bolton, Connecticut, January 20, 1997* by Fuss & O'Neill, Inc. This plan identified specific areas within the boundaries of the Municipality which could not support onsite wastewater treatment and required conveyance of the wastewater to an offsite facility for treatment and disposal.
  3. The Municipality submitted to the Commissioner the report entitled *Draft Report, Study of Manchester Sewer System Capacity, Bolton Lakes Wastewater Management Study, prepared for the Town of Vernon & Bolton, Connecticut, April 1999* by Fuss & O'Neill, Inc.
  4. The Municipality has not implemented any structural solutions to address the wastewater disposal problems identified in either the A.R. Lombardi or Fuss & O'Neill reports.
  5. By virtue of the above, a community pollution problem may exist or can reasonably be anticipated in the future.
- B. The Commissioner, acting under Sections 22a-6, 22a-424, 22a-427, and 22a-428, of the Connecticut General Statutes, orders the Municipality as follows:
1. a. On or before thirty (30) days following the effective date of this Order, the Municipality shall retain one or more qualified consultants acceptable to the Commissioner to prepare the documents and implement or oversee the actions required by this order and shall, by that date, notify the Commissioner in writing of the identity of such consultants. The Municipality shall retain one or more qualified consultants

acceptable to the Commissioner until this order is fully complied with, and, within ten days after retaining any consultant other than one originally identified under this paragraph, the Municipality shall notify the Commissioner in writing of the identity of such other consultant. The consultant(s) retained shall be a qualified professional engineer licensed to practice in Connecticut and shall be acceptable to the Commissioner. The Municipality shall submit to the Commissioner a description of a consultant's education, experience and training which is relevant to the work required by this order within ten days after a request for such a description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.

- b. On or before January 31, 2003, the Municipality shall conduct a public hearing on a revised version of the report entitled *Draft Report, Bolton Lakes Wastewater Management Study, Prepared for the Towns of Vernon & Bolton, Connecticut, January 20, 1997* by Fuss & O'Neill, Inc.
  - c. On or before February 28, 2003, the Municipality shall submit to the Commissioner for his review and written approval the report identified under paragraph B.1.b of this order. This report shall be a comprehensive and thorough engineering report which describes in detail the investigation performed; evaluates the alternatives for remedial actions; states in detail the most expeditious schedule for performing each alternative, and lists all permits and approvals required for each alternative, including but not limited to any permits or certifications required under sections 22a-32, 22a-42a, 22a-342, 22a-361, 22a-368, 22a-430 or 25-68 of the Connecticut General Statutes; proposes a preferred alternative with supporting justification therefore; and proposes a detailed program and schedule to carry out the preferred remedial actions, including but not limited to a schedule for applying for and obtaining all permits and approvals required for such remedial actions.
  - d. On or before December 16, 2003, the Municipality shall hold a referendum for funding of the remedial actions identified under paragraph B.1.c of this order.
2. Progress reports. On or before the last day of March, June, September, and December of each year after issuance of this order and continuing until all actions required by this order have been completed as approved and to the satisfaction of the Commissioner, the Municipality shall submit a progress report to the Commissioner describing the actions which the Municipality has taken to comply with this order to date.
  3. Full compliance. The Municipality shall not be considered in full compliance with this order until all actions required by this order have been completed as approved and to the satisfaction of the Commissioner.
  4. Approvals. The Municipality shall use best efforts to submit to the Commissioner all documents required by this order in a complete and approvable form. If the Commissioner notifies the Municipality that any document or other

action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and the Municipality shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty days of the Commissioner's notice of deficiencies. In approving any document or other action under this 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 order. Nothing in this paragraph shall excuse noncompliance or delay.

5. Definitions. As used in this order, "Commissioner" means the Commissioner or an agent of the Commissioner.
6. Dates. The date of submission to the Commissioner of any document required by this order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this order, the word "day" as used in this order means calendar day. Any document or action which is required by this 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 on or before the next day which is not a Saturday, Sunday, or Connecticut or federal holiday.
7. Notification of noncompliance. In the event that the Municipality becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this order or of any document required hereunder, the Municipality shall immediately notify the Commissioner and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. In so notifying the Commissioner, the Municipality shall state in writing the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and the Municipality shall comply with any dates which may be approved in writing by the Commissioner. Notification by the Municipality 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.
8. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this order shall be signed by a principal executive officer or ranking elected official or a duly authorized representative of such person, as those terms are defined in section 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the

submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense."

9. Noncompliance. Failure to comply with this order may subject the Municipality to an injunction and penalties under Chapters 439, and 445 or 446k of the Connecticut General Statutes.
10. False statements. Any false statement in any information submitted pursuant to this order may be punishable as a criminal offense under Section 22a-438 or 22a-131a of the Connecticut General Statutes or, in accordance with Section 22a-6, under Section 53a-157 of the Connecticut General Statutes.
11. Notice of transfer; liability of the Municipality and others. Until the Municipality has fully complied with this order, the Municipality shall notify the Commissioner in writing no later than fifteen days after transferring all or any portion of the operations which are the subject of this order, the site or the business, or obtaining a new mailing or location address. The Municipality's obligations under this order shall not be affected by the passage of title to any property to any other person or municipality. Any future owner of the site may be subject to the issuance of an order from the Commissioner.
12. Commissioner's powers. Nothing in this 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 violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by the Municipality pursuant to this order have not fully characterized the extent and degree of pollution or have not successfully abated or prevented pollution, the Commissioner may institute any proceeding to require the Municipality to undertake further investigation or further action to prevent or abate pollution.
13. The Municipality's obligations under law. Nothing in this order shall relieve the Municipality of other obligations under applicable federal, state and local law.
14. No assurance by Commissioner. No provision of this order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by the Municipality pursuant to this order will result in compliance or prevent or abate pollution.
15. No effect on rights of other persons. This order shall neither create nor affect any rights of persons who or municipalities which are not parties to this order.
16. Notice to Commissioner of changes. Within fifteen days of the date the Municipality becomes aware of a change in any information submitted to the Commissioner under this order, or that any such information was inaccurate or misleading or that any relevant information was omitted, the Municipality shall submit the correct or omitted information to the Commissioner.

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

Mr. George V. Hicks, P.E.  
Department of Environmental Protection  
Water Management Bureau  
Planning & Standards Division  
79 Elm Street  
Hartford, Connecticut 06106-5127

The Town of Bolton consents to the issuance of this consent order without further notice. The undersigned certifies that he is fully authorized to enter into this consent order and to legally bind the Town of Bolton to the terms and conditions of the consent order.

By \_\_\_\_\_  
Robert R. Morra  
First Selectman  
Town of Bolton

Issued as a consent order of the Commissioner of Environmental Protection on \_\_\_\_\_,  
2002.

\_\_\_\_\_

\_\_\_\_\_  
Arthur J. Rocque, Jr.  
Commissioner

ORDER NO. WC5288  
DEP/WPC NO. 012-001  
DISCHARGE CODE M  
TOWN OF BOLTON

STATE OF CONNECTICUT :  
V. :  
TOWN OF VERNON :

CONSENT ORDER

- B. With the agreement of the Town of Vernon, the Commissioner of Environmental Protection ("the Commissioner") finds:
1. The Town of Vernon (the "Municipality") submitted to the Commissioner the report entitled *A Draft Facilities Plan for Wastewater Disposal in the Bolton Lakes Area* dated April 1992 by A.R. Lombardi, Inc. This plan identified specific areas within the boundaries of the Municipality which could not support onsite wastewater treatment and required conveyance of the wastewater to an offsite facility for treatment and disposal.
  2. The Municipality submitted to the Commissioner the report entitled *Draft Report, Bolton Lakes Wastewater Management Study, Prepared for the Towns of Vernon & Bolton, Connecticut, January 20, 1997* by Fuss & O'Neill, Inc. This plan identified specific areas within the boundaries of the Municipality which could not support onsite wastewater treatment and required conveyance of the wastewater to an offsite facility for treatment and disposal.
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  4. The Municipality has not implemented any structural solutions to address the wastewater disposal problems identified in either the A.R. Lombardi or Fuss & O'Neill reports.
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  - f. On or before February 28, 2003, the Municipality shall submit to the Commissioner for his review and written approval the report identified under paragraph B.1.b of this order. This report shall be a comprehensive and thorough engineering report which describes in detail the investigation performed; evaluates the alternatives for remedial actions; states in detail the most expeditious schedule for performing each alternative, and lists all permits and approvals required for each alternative, including but not limited to any permits or certifications required under sections 22a-32, 22a-42a, 22a-342, 22a-361, 22a-368, 22a-430 or 25-68 of the Connecticut General Statutes; proposes a preferred alternative with supporting justification therefor; and proposes a detailed program and schedule to carry out the preferred remedial actions, including but not limited to a schedule for applying for and obtaining all permits and approvals required for such remedial actions.
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submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense."

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Mr. George V. Hicks, P.E.  
Department of Environmental Protection  
Water Management Bureau  
Planning & Standards Division  
79 Elm Street  
Hartford, Connecticut 06106-5127

The Town of Vernon consents to the issuance of this consent order without further notice. The undersigned certifies that she is fully authorized to enter into this consent order and to legally bind the Town of Vernon to the terms and conditions of the consent order.

By \_\_\_\_\_  
Diane Wheelock  
Mayor  
Town of Vernon

Issued as a consent order of the Commissioner of Environmental Protection on \_\_\_\_\_,  
2002.

\_\_\_\_\_

\_\_\_\_\_  
Arthur J. Rocque, Jr.  
Commissioner

ORDER NO. WC5287  
DEP/WPC NO. 012-001  
DISCHARGE CODE M  
TOWN OF VERNON

**PARTY LIST**

*Final Decision in the matter of Towns of Bolton/Vernon  
Order Nos. WC-5288 and WC-5287*

PARTY

REPRESENTED BY

Town of Bolton

Michael Zizka, Esquire  
Murtha, Cullina, LLP  
CityPlace 1, 185 Asylum St.  
Hartford, CT 06103

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Town of Vernon

Jerome D. Levine, Esquire  
380 Talcotville Road  
Vernon, CT 06066

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Department of Environmental Protection  
Bureau of Water, Planning & Standards Division  
79 Elm Street  
Hartford, CT 06716

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George V. Hicks (staff)