



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL**

OFFICE OF THE
SECRETARY

89 KINGS HIGHWAY
DOVER, DELAWARE 19901

PHONE: (302) 739-9000
FAX: (302) 739-6242

**CONCILIATION ORDER BY CONSENT
SECRETARY'S ORDER NO. 2015-WH-0012**
Issued Pursuant to 7 Del. C. § 6005(b) (2)

Issued To:

Peninsula Compost Company, LLC
110 South Poplar Street, Suite 400
Wilmington, DE 19801

Dear Sir or Madam:

This Secretary's Order reflects an effort by Peninsula Compost Company, LLC ("PCC") and the Secretary of the Department of Natural Resources & Environmental Control ("Secretary" or "DNREC") to ensure compliance with 7 Del. C. Chapter 60 by conciliation.

WHEREAS, on October 20, 2014 the Secretary issued Secretary's Order No. 2014-WH-023 (the "Order") which denied PCC's application for renewal of a beneficial use determination for PCC's composting activities at the Wilmington Organic Recycling Center ("WORC").

WHEREAS, PCC stopped accepting new materials on September 24, 2014 prior to issuance of the Order and completed all active composting phases by January 16, 2005 in compliance with the Order.

WHEREAS, the Order directed PCC to immediately cease accepting new material at the WORC and to begin an orderly closure of WORC according to a closure plan attached to the Order. Among other things, the Order directed PCC to complete all active composting phases by January 16, 2015 and that the WORC be completely closed and free of all compost and related waste by

Delaware's Good Nature depends on you!

March 31, 2015. The Order also directed PCC to pay an administrative penalty of \$10,000 within 30 days of the date of the Order.

WHEREAS, on November 7, 2014 PCC filed an appeal before the Environmental Appeals Board pursuant to 7 *Del. C.* § 6008 and § 102 of that Board's Regulations and a hearing date of March 10, 2015 was scheduled. Among the issues in PCC's appeal is the reasonableness of the March 31, 2015 closure date.

WHEREAS, market and weather conditions have severely limited PCC's ability to close the WORC by March 31, 2015 and by executing this Conciliation Order by Consent PCC is accepting responsibility for compliance herewith.

CONCILIATION

DNREC has determined that compliance with Title 7, Chapter 60 can best be achieved by completion of the following actions through which PCC can complete an orderly closure of WORC. This Conciliation Order by Consent is being issued pursuant to 7 *Del. C.* §6005(b)(2) so that PCC may maintain compliance with applicable law and regulations, resolve past violations, and address potential future violations by adhering to a revised closure plan and schedule. This Conciliation Order by Consent is being issued pursuant to 7 *Del. C.* § 6005(b) (2) for that purpose.

NOW THEREFORE, DNREC and PCC execute this Conciliation Order by Consent to pursue these environmental and economic objectives, and it is Ordered and Agreed as follows:

1. PCC may continue to operate the WORC until June 30, 2015 subject to the following conditions:
 - a. PCC will comply with the Amended Composting Approval for Closure Activities ("Amended Closure Plan") attached hereto and incorporated herein by reference;
 - b. The WORC will accept no new material;
 - c. The WORC will not actively compost any new material;

d. ALL material currently located at the WORC will be properly distributed, disposed, or recycled by June 30, 2015 without regard to market or weather conditions as provided in the Amended Closure Plan;

e. Interim deadlines for other closure activities (i.e. cleaning out trenches, stormwater ponds, etc.) in the Amended Closure Plan will be met;

f. PCC agrees to recovery by DNREC for all DNREC compliance monitoring costs due to this extension as allowed by law;

g. Upon execution of this Conciliation Order by Consent, PCC will dismiss its appeal now pending before the Environmental Appeals Board, Case No. 2014-09.

2. On or before June 5, 2015, DNREC shall review the status of PCC's efforts to close the WORC facility, and shall identify in writing any issues of potential concern with respect to the closure of the facility. DNREC and PCC shall use reasonable best efforts to reach agreement on any additional items of work required to close the facility in compliance with the Order and this Conciliation Order by Consent and the Amended Closure Plan.

3. The outstanding balance of the \$10,000.00 administrative penalty mentioned above will be waived as long as the June 30, 2015 closure date is met and the WORC is properly closed. DNREC further agrees to suspend enforcement efforts for violations that have been observed at the WORC since the date of Order No. 2014-WH-23, October 20, 2014, as long as the June 30, 2015 closure date is met. DNREC specifically reserves the right to take any and all appropriate actions with respect to other violations or if PCC violates the terms of the Amended Closure Plan.

4. If PCC fails to meet the June 30, 2015 closure deadline set forth in the Amended Closure Plan, DNREC may assess stipulated penalties in the amount of \$10,000 a day per each day beyond June 30, 2015 that such deadline has not been met. Penalties shall be submitted to DNREC within 30 days of the notice of penalty assessment by DNREC.

5. This Conciliation Order by Consent shall be enforceable in a court of appropriate jurisdiction and PCC shall not contest the Secretary's jurisdictional authority to do so.

REGULATORY AND STATUTORY PROVISIONS

6. This Conciliation Order by Consent is being issued pursuant to 7 Del. C. § 6005 which states in pertinent part:

(a) The Secretary shall enforce this chapter.

(b) Whoever violates this chapter or any rule or regulation duly promulgated thereunder, or any condition of a permit issued pursuant to § 6003 of this title, or any order of the Secretary, shall be punishable as follows:

* * *

(2) * * * If the violation is continuing or is threatening to begin, the Secretary may also seek a temporary restraining order or permanent injunction in the Court of Chancery. In his or her discretion, the Secretary may endeavor by conciliation to obtain compliance with all requirements of this chapter. Conciliation shall be giving written notice to the responsible party (i) specifying the complaint, (ii) proposing a reasonable time for its correction, (iii) advising that a hearing on the complaint may be had if requested by a date stated in the notice, and (iv) notifying that a proposed correction date will be ordered unless a hearing is requested. * * *

ADDITIONAL PROVISIONS

7. The parties desire a resolution of the matters arising from the allegations stated in the Order and all notices, complaints, allegations, inquiries, investigations, or proceedings by DNREC prior to the effective date of this Conciliation Order and agree that settlement of these matters without further litigation is in the best interest of the parties and this Conciliation Order is the most appropriate means of resolving these matters.

8. PCC accepts this Conciliation Order in order to resolve disputed claims, without admission of fact, violation, or liability, and in lieu of further enforcement action by DNREC for the matters addressed in this Conciliation Order. PCC specifically denies any and all allegations of liability or wrongdoing. DNREC agrees that execution of this Order by PCC does not constitute an admission of any fact or violation of any law, regulation, or permit condition. DNREC and PCC agree that the actions to be performed by PCC pursuant to this Conciliation Order, as well as the execution of this Conciliation Order, shall not be construed to be an admission of any liability or wrongdoing on the part of PCC.

9. This Conciliation Order becomes effective on the date of execution by the Secretary of DNREC.

10. Compliance with this Conciliation Order shall fully resolve, and constitute an accord and satisfaction of, any and all violations that have been or could have been alleged that were known by DNREC against PCC (or its officers, directors, affiliates, members, employees, or agents) as of the effective date.

11. PCC waives the right to appeal the issuance, terms, and service of this Conciliation Order and it hereby waives any and all rights it might have to seek judicial review of the issuance of this Conciliation Order and Amended Closure Plan either in law or in equity.

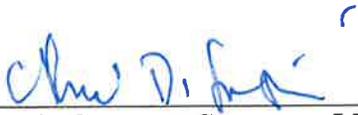
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3/31/15



David S. Small, Secretary

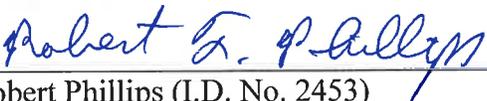
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Peninsula Compost Company, LLC by
E. Andrew DiSabatino, Managing Member

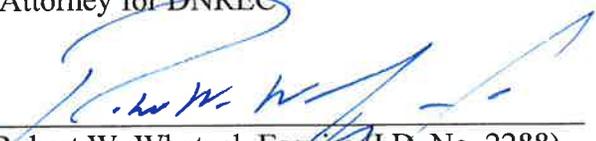
APPROVED AS TO FORM

DATE: 3/27/15



Robert Phillips (I.D. No. 2453)
Deputy Attorney General
391 Lukens Drive
New Castle DE. 19720
(302) 577-8332
Attorney for DNREG

DATE: 3/27/15



Robert W. Whetzel, Esquire (I.D. No. 2288)
Richards, Layton & Finger
One Rodney Square
P.O. Box 551
Wilmington, DE 19899
(302) 651-7634
Attorney for Peninsula Compost

AMENDED COMPOSTING APPROVAL FOR CLOSURE ACTIVITIES

Effective Date: March 20, 2015
Expiration Date: July 31, 2015

Business Name: Peninsula Compost Company, LLC

Mailing Address: 612 Christiana Avenue
Wilmington, DE 19801

Ownership Contact Person: Andy DiSabatino
Phone Number: (302) 421-2953

Alternate Ownership Contact: Mike Evanko
Phone Number: (302) 655-7300

Alternate Ownership Contact: Eric Myers
Phone Number: (713) 265-1437

Facility Name: Wilmington Organic Recycling Center (“WORC”)

Facility Contact Person: Ken Horn, Facility Operations Manager
Phone Number: (267) 283-5414

Location of Approved Activity: 601 and 612 Christiana Avenue
Wilmington, DE 19801
Tax Parcel Numbers: 2606300018, 2606300019,
2606600005, and portion of 2606300014 (collectively
“Site”, see attached map)

I. GENERAL CONDITIONS:

- A. In accordance with the Conciliation Order by Consent (“Conciliation Order”) issued on March 31, 2015, the Department of Natural Resources and Environmental Control (“the Department”) issues this Amended Composting Approval for Closure Activities (“Approval” or “Amended Closure Plan”) to Peninsula Compost Company, LLC (“Peninsula”) for the purpose of closing the facility, including, but not limited to, proper disposal of wastes and distribution of compost. The facility is located on Tax Parcels 2606300018, 2606300019, and

- B. 2606600005 located on 612 Christiana Avenue and a five acre portion of 2606300014 located on 601 Christiana Avenue in Wilmington, Delaware (see attached parcel and site maps).
- C. This Approval prohibits Peninsula from accepting waste of any kind and directs closure of the facility.
- D. This Approval supersedes and replaces all prior solid waste/composting Approvals related to Peninsula.
- E. This Approval shall be implemented according to the timelines specified herein and as outlined in Table 1.

TABLE 1. CLOSURE DEADLINES

Activity	Deadline
Reduction of total compost, soil, and soil blend to no more than 40,000 cubic yards	Tuesday, March 31, 2015
Windrow Composting Area and Primary Curing Area (as shown on attached site map) free of all waste and compost. Trenches free of remaining waste. Receiving Building free of waste, cleaned, and deodorized.	Monday June 1, 2015
All wood waste overs from the screening process shall be properly disposed of or recycled off-site	Tuesday, June 30, 2015
All collected litter and residual waste shall be properly disposed of off-site	Tuesday, June 30, 2015
Site free of all compost, wood waste, "overs", soil, soil blend, and any other waste	Tuesday, June 30, 2015
All yard waste, wood waste, and land clearing debris shall be properly disposed of or recycled off-site	Tuesday, June 30, 2015
Submit certification letter that closure activities are complete	Tuesday, June 30, 2015

- F. This Approval shall be conducted in accordance with the conditions herein and with the following documents, as submitted to the Department: (1) Application for Beneficial Use Determination, dated June 2014; (2) "Checklists for Persons Applying for a BUD" and its attachments dated June 2014; (3) proof of lease agreement, dated June 24, 2008; (4) Financial assurance: a Trust Agreement and an Irrevocable Standby Letter of Credit in the amount of \$405,675 dated August 28, 2013; (5) Facility Operations Plan dated July 2014; (6) Material Removal Schedule referenced in Letter from Peninsula dated January 28, 2015; (7) Conciliation Order; and (8) other procedures and policies specifically referenced in this Approval, to the extent they apply to the remaining tasks to be completed in complying with this Amended Closure Plan. Conditions of this Approval and the Conciliation Order shall take precedence over any of the above listed

documents. Failure to comply with any condition of this Approval or any provisions within the aforementioned documents is a violation of this Approval and the Conciliation Order and may result in additional enforcement action(s).

- G. Peninsula shall, upon request, present a copy of this Approval and the Conciliation Order to any law enforcement officer or representative of the Department.
- H. Peninsula shall notify the SHWMS in writing within twenty-four (24) hours of any changes in the ownership, operators, name, or company officials.
- I. Peninsula shall notify the SHWMS in writing at least five (5) days prior to the anticipated need to implement changes that will alter the beneficial use of the processed compost, or changes to processes, operations, or procedures described in the Application documents referenced above in section I.E., or to this Approval. Peninsula shall not implement said changes unless and until they have been notified in writing from the SHWMS agreeing to the change(s).
- J. This Approval may be modified by the Department at any time on reasonable notice to Peninsula, including additional limitations, requirements and/or special conditions. In the event the regulations governing activities authorized in this Approval are revised, this Approval may be modified.
- K. In the event that any condition of this Approval cannot be achieved or is violated, Peninsula shall immediately notify the SHWMS and take immediate action to correct the violation.

II. GENERAL OPERATING CONDITIONS:

- A. Operating hours: Six days per week, Monday through Saturday 6:00 a.m. to 5:00 p.m. Employees in the compost processing area and engaged in load out operations may work beyond the stated hours as required.
- B. Security: Access to the Peninsula composting facility shall be controlled to prohibit the entry of unauthorized individuals.
- C. Access: Representatives of DNREC may, at any reasonable time, inspect this facility to verify compliance with the requirements of this Approval, the Conciliation Order, Delaware's *Regulations Governing Solid Waste* ("DRGSW"), and 7 Del. C. Chapter 60.
- D. Litter control: Daily litter control inspections at the perimeter of the facility shall be conducted and recorded on the Compost Facility Daily Inspection Sheet as detailed in the July 2014 Operations Plan. Daily inspection sheets shall be maintained on site and shall be immediately available to the Department upon request. Litter on and around the facility shall be controlled and collected daily, including collection, removal and proper disposal of any solid waste not approved for processing. It also includes collection and proper disposal of any outgoing compost product or compost/soil mixture that falls along Christiana Avenue adjacent to the Peninsula site entrances. Collected litter and waste from the screening process shall be stored in enclosed containers.
- E. Dust control: No dust shall be allowed to migrate off of the facility. Dust shall be controlled at the Peninsula facility by:

1. Using street sweeper equipment on the site
 2. Other means as necessary
- F. Odor control: As part of the compost operator training, Peninsula operators shall be trained to recognize the improper odors associated with food waste management, anaerobic decomposition or other improper composting techniques within stored compost piles and shall take corrective action to eliminate these odors by employing proper materials management and composting procedures. Peninsula operators shall also be familiar with, and act according to, the most current version of the Odor Minimization and Monitoring Plan approved by the Division of Air Quality. Odors resulting from the Peninsula facility shall not be perceived beyond the boundaries of the Peninsula property. Peninsula shall post, in plain sight of the public, the facility's Odor Complaint Hotline. Any odor complaints received shall be documented and records of the complaints shall be immediately available to the Department upon request. Odors shall be controlled at the Peninsula facility by:
1. Using odor neutralizers on the site
 2. Proper removal of waste and distribution of compost as quickly as possible (no later than the deadlines outlined in Table 1 of this Approval)
 3. Other means as necessary.
- G. Vector control: Peninsula shall monitor the facility for the presence of any rodents or other undesirable vectors daily. Peninsula shall document the presence of any undesirable vectors and legally eradicate them.
- H. Fire safety:
1. Daily temperature monitoring shall be conducted and records maintained for all composting windrows. If routine temperature monitoring shows a location in a windrow where temperatures are greater than 160 degrees Fahrenheit, employees shall flag the location and report it to the site manager immediately.
 2. If smoke is detected, employees shall flag the location and report it to the site manager immediately.
 3. The site manager shall act promptly to investigate all issues related to fire safety. Employees shall be trained in the proper procedures for fighting a compost fire.
 4. If a fire is detected, Peninsula shall call 911 to request assistance from the local firefighting agencies. Peninsula shall notify SHWMS at (302) 739-9403 ext. 8 of any fire within 24 hours of detection.
 5. Peninsula management asserts that it has met with representatives from the Wilmington Fire Department to ensure that their personnel are familiar with the layout of the facility, the sources of water for firefighting, and the methods of fighting a compost fire. Peninsula has developed a fire management plan with the Wilmington Fire Department, which has been in effect since the opening of the Peninsula facility and which shall remain in effect until the closure of the facility.
- I. Employee Health and Safety: Employees shall work under appropriate health and safety guidelines established by the Occupational Safety and Health

Administration. Use of personal protective equipment shall be in accordance with 29 CFR Part 1910.132 as a minimum. First aid equipment shall be maintained and available onsite. Emergency telephone numbers of nearby ambulance, hospital, police and fire services shall be prominently displayed on-site.

- J. Smoking: No smoking shall be permitted in the receiving, processing, screening, and storage areas.
- K. Equipment Usage, Inspection and Maintenance: A combination of processing equipment such as front-end loaders, a slow speed shredder, screens, and a sweeper truck will be used to implement this Approval. Peninsula shall use a combination of this equipment and manual labor to process the waste material and to handle finished compost. Processing equipment shall be selected and operated in a manner to meet DNREC Air Quality standards in effect at the site. Peninsula shall maintain the air permit for their air ventilation system as long as it is required, and secure any necessary Division of Air Quality permits. All operating equipment shall be operated and inspected in accordance with the manufacturer's recommendation, any required permits, and this Approval. Equipment shall be maintained and operated in a manner that protects Peninsula employees, the public and the environment.
- L. Training: All employees who are to work in the receiving or compost processing area will have received initial training in (1) Health and safety procedures, (2) Fire prevention and protection, (3) Emergency first aid and (4) CPR. Prior to working in the composting operation, employees shall receive compost operator training including site specific training on how to conduct an inspection of the facility. They will also receive equipment operation training conducted by the equipment manufacturer's representative or another person specifically knowledgeable in the operation of the equipment. Training shall include the manufacturer's operating and maintenance manual, operation instruction, equipment safety features, and hazards that might be encountered. Unless otherwise specified by a nationally recognized training provider (for example, the American Red Cross as a training provider for First Aid), training shall be required initially and annually thereafter.
- M. Recordkeeping:
 - 1. Peninsula shall maintain all training records for a period of three (3) years from the Expiration Date of this Approval and the records shall be immediately provided to the Department upon request. These records shall document that required training has been provided to all employees who are to work in the waste receiving and compost processing areas.
 - 2. Peninsula shall record and maintain all data required by this Approval for a period of three (3) years from the Expiration Date of this Approval. The records shall be immediately provided to the Department upon request, including:
 - a. Daily, monthly, and annual tonnages for all incoming waste and materials (listed by waste/material description)

- b. Daily, monthly, and annual tonnages for all outgoing waste and materials, including prohibited wastes and residuals (listed by waste/material description)
- c. A list of all buyers or outlets of products
- d. Records from all monitoring and inspections described in this Approval and in Peninsula's July 2014 Operations Plan
- e. Daily compost process control and monitoring information
- f. Laboratory results from all sampling described in this Approval
- g. Odor, dust and vector complaints received from off site
- h. All data, forms, and reports described in Peninsula's Odor Minimization and Monitoring Plan

N. Sampling and Analysis:

1. All sampling shall be conducted in accordance with the U.S. Composting Council's *Test Methods for Evaluation of Compost and Composting (TMECC)*.
2. Peninsula shall sample and analyze each batch of finished compost in order to demonstrate that the finished compost meets the analytical and performance criteria listed in Table 2, below. A batch of finished compost is defined as $\leq 2,200$ cubic yards of compost that has completed Phase IV and has been screened through a $\frac{1}{2}$ inch screen (or smaller). Storage of Compost Awaiting Analysis:
 - a. Each batch of finished compost shall be stored separate from all other batches and windrows unless and until it can be shown to meet the analytical and performance criteria.
 - b. All batches of compost awaiting analysis or results shall be stored on 601 and/or 612 Christiana Avenue.
3. In the event that a batch of finished compost product fails to meet any of the criteria listed below for any parameter listed in Table 2, Peninsula shall notify the Department in writing within 24 hours, or the next business day, of Peninsula's receipt of the data and provide what corrective actions will be taken to address this failure and prevent future failures.
4. Each batch of finished compost product that does not meet the criteria for Maturity, Soluble Salts, pH, total inerts, moisture content, or carbon to nitrogen ratio shall not be distributed unless and until, Peninsula receives written Department approval or additional management and subsequent analysis of the same batch of finished compost demonstrates it meets the criteria for those parameters.
5. A batch of finished compost product that fails to meet the criteria for Salmonella, Fecal coliform, or any metal listed in Table 2 shall be properly disposed of by May 31, 2015.
6. Metals analysis shall be on a dry weight basis for arsenic, cadmium, chromium, copper, lead, mercury, molybdenum, nickel, selenium, and zinc using EPA's SW-846 (*Test Methods for Evaluating Solid Waste, Physical/Chemical*) method 6010 in its most currently approved version.

Metals in the finished compost shall not exceed the Delaware Uniform Risk Based Remediation Standards (URS) for Critical Water Resource Area, Unrestricted Use as shown in Table 2:

TABLE 2. PERFORMANCE and ANALYTICAL CRITERIA

PARAMETER	CRITERIA
Maturity	≥ 7 based on Solvita® Compost Maturity Index ¹
Soluble Salts (Conductivity)	≤ 10 mmhos/cm
Salmonella	< 3 MPN per 4 g dry wt.
Fecal Coliform	< 1,000 MPN
pH	5 – 8.5
Total Inerts	< 1 %, not to exceed 0.5% plastic
Moisture Content	35-50%
Carbon to Nitrogen Ratio	10:1 to 15:1
Arsenic	< 11 mg/kg ²
Cadmium	< 4 mg/kg
Chromium	< 35 mg/kg ³
Copper	< 310 mg/kg
Lead	< 400 mg/kg
Mercury	< 10 mg/kg
Molybdenum	< 2 mg/kg
Nickel	< 160 mg/kg
Selenium	< 26 mg/kg
Zinc	< 2,300 mg/kg

¹ Or shown to be stable to very stable using another method listed in the U.S. Composting Council’s *Test Methods for Evaluation of Compost and Composting* (TMECC).

² Division policy sets limit for Arsenic at 11 ppm (mg/kg)

³ The criterion for Chromium is based on the limit for Chromium VI.

- O. Reporting-Monthly: Peninsula shall submit the results from all analyses conducted in a given month to the Department via e-mail or in hard copy on a monthly basis by the 10th of the following month (i.e. October’s monthly report would be due by November 10th). Each report shall include a status update of closure activities as described in Table 1 of this Approval. Peninsula shall also include in these monthly reports tonnages and volumes of:
1. Yard waste, wood waste, food waste, hatchery waste, animal bedding, and any other incoming waste received, listed by waste type
 2. Finished compost produced
 3. Finished compost, or other material, distributed, including the date and customer name or specific location where sent

4. All waste sent for disposal, recycling, or reuse, and the date and facility where sent. An attempt to provide a general description of the waste shall also be provided (i.e. residual waste, collected litter, etc.).
5. Compost failing to meet performance and analytical criteria in Table 2, including the parameter(s) that was not met and the facility at which the unacceptable compost, and manufactured soil if applicable, was disposed
6. All material stored on site, listed by type and location as depicted on attached site map.

Monthly reports shall be submitted to:

Mindy Anthony
Delaware Department of Natural Resources and Environmental
Control
Solid and Hazardous Waste Management Section
89 Kings Highway
Dover, DE 19901

III. RAW MATERIAL ACCEPTANCE, PROCESSING, AND STORAGE:

- A. Authorized Waste Types: Peninsula shall not accept any waste. Only yard waste, wood waste, and compost that existed on site prior to this Approval shall be managed as directed by this Approval such that no compost or waste remains on site by June 30, 2015.
- B. Procedures for Storage of Waste:
 1. Storage of waste shall be in accordance with deadlines specified in Table 1 and otherwise in this Approval.
 2. All wood waste “overs” from the screening process shall be properly disposed of or recycled off site such that none exists on site by June 30, 2015.
 3. All yard waste, wood waste, and land clearing debris shall be properly disposed of or recycled off site by June 30, 2015.
 4. Yard waste and wood waste, including wood waste overs from the screening process, shall be stored in distinct piles. The total amount of yard waste and wood waste, including wood waste overs from the screening process, stored on site shall continuously and expeditiously be reduced in volume and tonnage. All yard waste and wood waste piles shall have a maximum height of 15 feet.
 5. The temperature of the piles of ground yard waste and ground wood waste, including wood waste overs from the screening process, shall be monitored and recorded at least once a week to ensure the temperature at the core of the pile does not exceed 160 degrees Fahrenheit. If the temperature is above 160 degrees Fahrenheit, Peninsula shall follow the fire safety procedures outlined in section II.H above and take action to reduce the risk of fire. Records shall indicate the temperature measured as well as any actions taken to lower the temperature, if applicable.

6. Collected litter and residual waste shall be stored in enclosed containers. Containerized waste(s) stored shall be removed the same day the container becomes full or within 72 hours of the Department's request for Peninsula to dispose of the waste (whichever comes first). All collected litter and residual waste shall be properly disposed of off-site by June 30, 2015.
 7. All compost shall be stored in windrows. No windrow shall exceed 185 feet in length, 26 feet in width or 12 feet in height. Windrows shall be at least six feet apart at the base and at least 12 feet apart at the top.
 8. Any other storage or handling of waste not described in this Approval is prohibited.
- C. Procedures for Waste in the Process of Composting: All Phase IV compost shall have gone through mechanical separation to remove plastics.
- D. Procedures for Soil Acceptance: Peninsula shall evaluate all soils using appropriate due diligence and site investigative techniques to certify that the material meets the definition of Clean Fill set forth in Delaware's *Regulations Governing Solid Waste (DRGSW)*. If soil classification cannot be determined in this way, soil sampling and analysis shall be conducted prior to soil acceptance to verify that the incoming soil meets Delaware URS Standards for a Critical Water Resource Area, Unrestricted Use.
- E. Procedures for Soil Storage: Soil shall be stored on 601 Christiana Avenue but shall be clearly identified and segregated from all other windrows and piles. Soil storage shall be conducted in a manner such that all other storage limitations established in this Approval are met at all times. Soil storage shall also be maintained such that it poses no threat to the environment. All manufactured soil shall not exceed 10,000 cubic yards. By June 30, 2015, Peninsula shall not store any soil or soil/compost blend.

IV. **STORAGE OF FINISHED COMPOST:**

- A. Finished compost is defined as compost that has completed the composting phases, has been screened through a ½-inch screen (or smaller), has satisfied all performance and analytical criteria specified in Table 2 of this Approval, and is immediately available for distribution to a customer, whether paid or unpaid.
- B. Finished compost shall be stored on 601 Christiana Avenue as designated on the attached site map.
- C. By June 30, 2015, Peninsula shall not store any compost, including compost awaiting analysis.

V. **FINISHED COMPOST USE AND APPLICATION:**

- A. It is Peninsula's responsibility to ensure that all necessary approvals have been obtained prior to marketing or distributing the compost.
- B. Finished compost shall be distributed to be used as a soil amendment or to create manufactured soil. In order to meet the closure deadline of June 30, 2015, any finished compost unable to be distributed may be sent for disposal.

C. Finished compost shall not be used at or around the WORC facility.

VI. **CLOSURE:**

- A. The purpose of this Approval is to direct closure of the facility. Closure activities shall be conducted in accordance with deadlines specified in Table 1 and otherwise in this Approval. Peninsula shall cease operations and remove all waste, soil, soil/compost blend, and compost from the facility and shall clean the facility with a street sweeper or similar by June 30, 2015.
- B. Peninsula shall notify the Department in writing when closure activities are complete. Closure shall be complete by June 30, 2015.
- C. The total amount of yard waste, wood waste (including wood waste overs from the screening process), soil, finished compost and compost awaiting analysis stored on site shall continuously and expeditiously be reduced in volume and tonnage. By June 30, 2015, all waste, soil, and compost, including compost which did not meet the analytical criteria established in Table 2 of this Approval, shall be removed from the site.
- D. Peninsula shall distribute the Phase IV material or finished compost from the Windrow Composting Area and Primary Curing Area prior to distributing the same type of material from other areas on 601 and 612 Christiana Avenue, unless otherwise requested by a customer. The Windrow Composting Area and Primary Curing Area shall be swept clean by June 1, 2015.
- E. By June 1, 2015, Peninsula shall clean the leachate collection trenches such that they:
 - 1. Are free of all waste, compost, and residue
 - 2. Are rinsed
 - 3. Allow water to flow freely and unobstructed.
- F. Peninsula shall clean the Receiving Building floor such that all waste is removed and shall deodorize the floor by June 1, 2015.
- G. Peninsula shall sample the surface water and sediment from the three stormwater ponds on site. Surface water and sediment from the stormwater ponds shall be analyzed, on a dry weight basis, for the metals listed in Table 2 using EPA's SW-846 (*Test Methods for Evaluating Solid Waste, Physical/Chemical*) method 6010 in its most currently approved version. Sampling of surface water shall be conducted in accordance with Section 9.1.5 of Delaware's *Regulations Governing Storm Water Discharges Associated with Industrial Activities*. Sampling of sediment shall be conducted in accordance with the Department's Site Investigation and Restoration Section's Standard Operating Procedure for Sediment Sampling. Peninsula shall cooperate with the Department's Division of Water, Surface Water Discharge Section, and Division of Waste and Hazardous Substances, Site Investigation and Remediation Section, on any additional related requirements.
- H. Upon completion of all closure activities, Peninsula shall submit certification, signed by an owner or corporate officer, verifying that all closure activities were conducted in accordance with the Conciliation Order, and this Approval.

Peninsula shall also identify any deviations from the same Conciliation Order and Approval.

- I. Successful closure shall be defined as Peninsula conducting all closure activities and meeting all deadlines specified in the Conciliation Order and Approval to the satisfaction of and at the sole discretion of the Department. Upon its determination that closure is satisfactorily completed, the Department shall issue a notice to Peninsula stating the same.

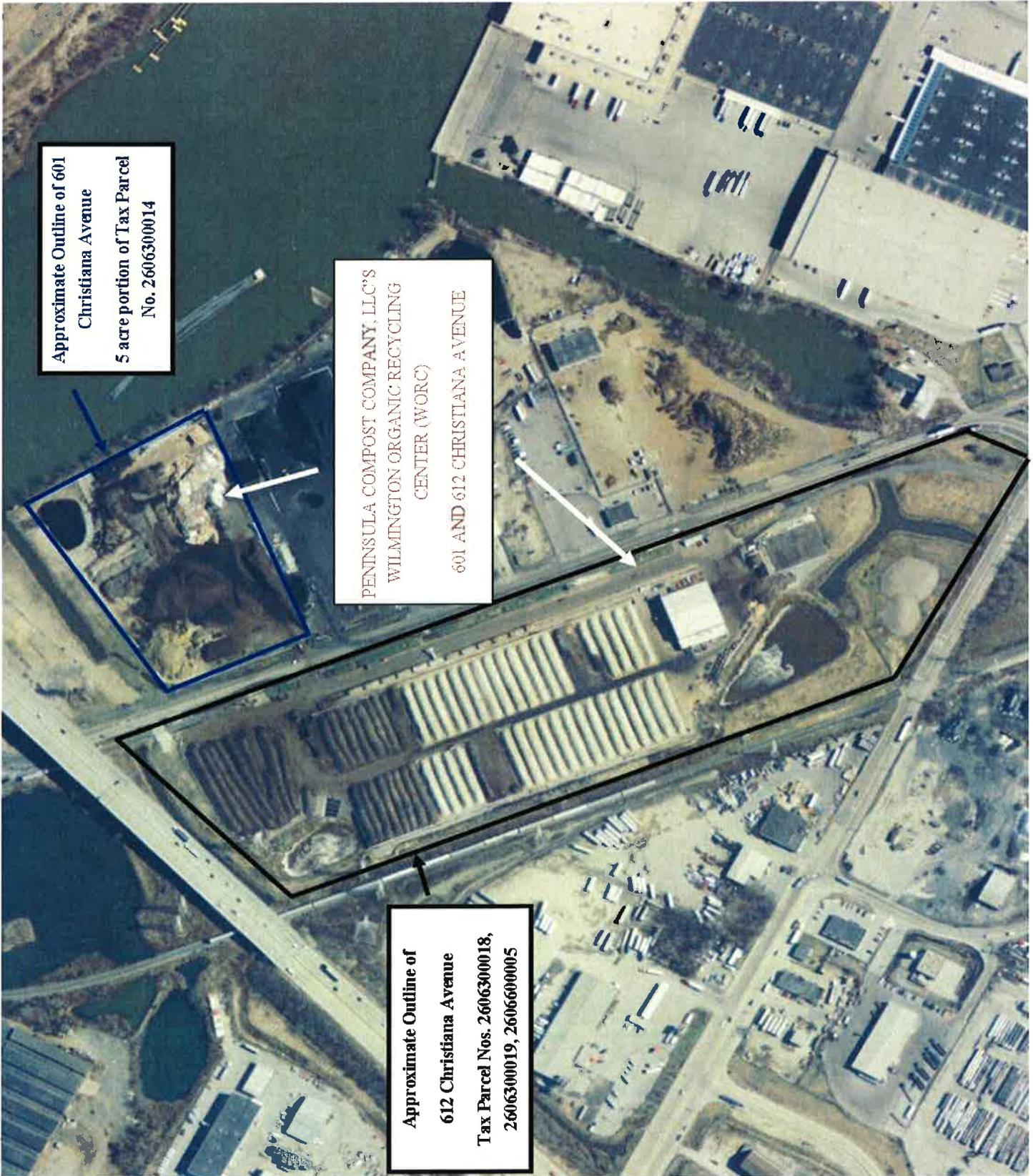
VII. **ADDITIONAL CONDITIONS:**

- A. The Department retains the right to collect samples of any material at any time. The Department and Peninsula retain the right to obtain split samples from each other's sampling events for separate analysis. Peninsula shall bear the expenses or reimburse the Department for the cost of analysis of all samples obtained and analyzed by, or for, the Department once per quarter.
- B. Peninsula shall obtain and maintain proper coverage under the Department's National Pollutant Discharge Elimination System (NPDES) stormwater permit program as applicable. Peninsula shall notify the stormwater program of its closure activities and expected date of closure.
- C. This Approval does not relieve Peninsula from complying with any other applicable Federal, State, or Local laws, regulations or ordinances.
- D. Any violation of any condition of this Approval, regulation promulgated by the Department, Secretary's Orders, or provision of 7 Del.C. Chapter 60, shall justify termination of this Approval, implementation of appropriate enforcement action, and other remedies as deemed appropriate by the Department.

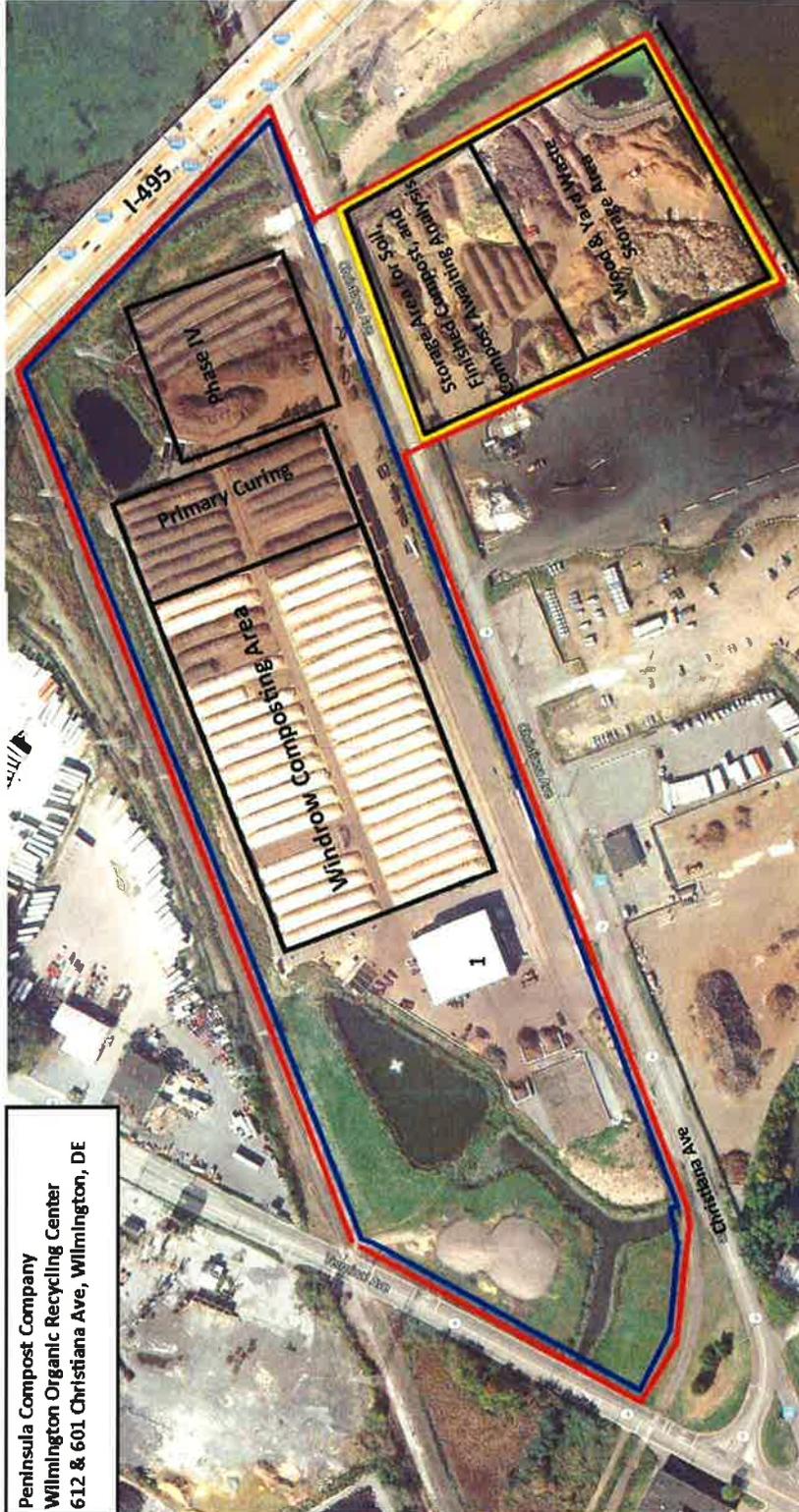
 on behalf of

Nancy C. Marker
Environmental Program Administrator
Solid and Hazardous Waste Management Section

3/31/15
Date



ATTACHED SITE MAP



Peninsula Compost Company
 Wilmington Organic Recycling Center
 612 & 601 Christiana Ave, Wilmington, DE

- 612 Christiana Avenue Area
- 601 Christiana Avenue Area
- Peninsula (WORC) Facility Boundaries
- As previously designated by Peninsula and described in past Approvals
- 1**—Receiving Building