

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Maximilian Booy
Name of Case Attorney

9/24/12
Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number CWA-01-2012-0002

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

The Miller Company, Inc.
275 Pratt Street
Meriden, CT 06450

Total Dollar Amount of Receivable \$ 7,500.00 Due Date: 10/24/12

SEP due? Yes No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

- 1st \$ 25,000 on _____
- 2nd \$ _____ on _____
- 3rd \$ _____ on _____
- 4th \$ _____ on _____
- 5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

_____ Phone Number



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

RECEIVED

SEP 24 2012

EPA ORC
Office of Regional Hearing Clerk

September 24, 2012

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

BY HAND

Re: *In re: The Miller Company, Inc.* SEP
Docket No. CWA-01-2012-0002

Dear Ms. Santiago:

Enclosed for filing in the above-referenced action, please find the original and one copy of a Consent Agreement and Final Order (CAFO) settling the matter referenced above pursuant to 40 C.F.R. § 22.18(b) and the certificate of service.

Thank you for your attention to this matter.

Sincerely,

Handwritten signature of Maximilian Boal in cursive.

Maximilian Boal
Enforcement Counsel

Enclosure

cc: Diane C. Bellantoni, Esq.

RECEIVED

SEP 24 2012

EPA ORC
Office of Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

_____)	
In the Matter of:)	Docket No. CWA 01-2012-0002
)	
The Miller Company, Inc.)	CONSENT AGREEMENT
275 Pratt Street)	AND FINAL ORDER
Meriden, CT 06450)	
)	
Respondent.)	
_____)	

This Consent Agreement and Final Order (“CAFO”) is proposed and entered under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 311(b)(6)(B)(ii) of the Clean Water Act (“CWA”), 33 U.S.C. § 1321(b)(6)(B)(ii), as amended by the Oil Pollution Act of 1990, and under the authority provided by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits, set forth at 40 C.F.R. Part 22 (“Part 22 Rules”).

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding against The Miller Company, Inc. (“Respondent”), pursuant to Section 311(b)(6), 33 U.S.C. § 1321(b)(6), by filing an Administrative Complaint Docket No. CWA 01-2012-0002 (“Complaint”).

CONSENT AGREEMENT AND FINAL ORDER
In re: The Miller Company, Inc.
Docket No. CWA 01-2012-0002

US EPA, REGION 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

2. The Complaint alleges that Respondent's violations of Sections 311(b)(3) and 311(j) of the CWA had subjected Respondent to penalties up to the statutory maximum authorized under those statutes.

3. The factual and jurisdictional basis for proposing the assessment of civil penalties is set forth in the Complaint and is incorporated herein by reference.

II. CONSENT AGREEMENT

4. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent.

5. Respondent neither admits nor denies the specific factual allegations contained in the Complaint.

6. Respondent certifies that it is currently operating and will operate the Facility described in the Complaint in compliance with Section 311 of the CWA and the federal regulations promulgated thereunder.

Waiver of Rights

7. Respondent waives any defenses it might have as to jurisdiction and venue and consents to the terms of this CAFO.

8. Respondent waives its right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint.

9. Respondent waives its right to appeal any Final Order in this matter, and consents to the issuance of the Final Order without further adjudication.

Penalty

10. For the purpose of settlement of this action, Complainant proposes and Respondent consents to the assessment of a civil penalty of \$7,500.

Payment Terms

11. In agreeing to the penalty described in paragraph 10 above, EPA has taken into account the statutory penalty factors at Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8). Respondent shall pay a total penalty of \$7,500, which shall be due within 30 calendar days of the effective date of this CAFO.

12. Respondent shall make payment by cashier's of certified check, payable to "Environmental Protection Agency," and referencing the title and docket number of the action ("In the Matter of The Miller Company, Inc., Docket No. CWA 01-2012-0002") and "Oil Spill Liability Trust Fund – 311." The payment shall be mailed to:

U. S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

13. Respondent shall simultaneously submit copies of the penalty payment check referenced in Paragraph 12 to the following:

Wanda Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100
Mail Code: ORA18-1
Boston, MA 02109-3912

and

Maximilian Boal, Enforcement Counsel
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100
Mailcode: OES04-2
Boston, MA 02109-3912

Supplemental Environmental Project (“SEP”)

14. Respondent shall complete the following Supplemental Environmental Project (“SEP” or “Project”), being the enhancement of the emergency response capabilities of the Meriden Fire Department, as described in Attachment 1, which the parties agree is intended to secure significant environmental and public health protection and benefits. Attachment 1 includes a summary of the equipment to be provided to the Meriden Fire Department for the SEP and an estimate of the cost of that equipment as of the effective date of the CAFO. The total expenditure for the SEP shall not be less than twenty-five thousand dollars (\$25,000) including all fees associated with the equipment which may include shipping and handling costs.

15. Respondent shall order the emergency response equipment described in Attachment 1 within thirty (30) days of the effective date of this CAFO. Respondent shall pay for and transfer such emergency response equipment to the Meriden Fire Department

upon the availability of the equipment. Respondent shall provide a copy of the purchase order to Mr. Boal at the address in Paragraph 13 of this CAFO. Respondent shall notify EPA when the emergency response equipment has been transferred to the Meriden Fire Department.

16. **SEP Completion Report.** Respondent shall submit a SEP Completion Report within 60 days of completion of the SEP. The SEP Completion Report shall contain the following information: (i) a detailed description of the SEP as implemented; (ii) a list of itemized costs for implementing the SEP; (iii) a certification by Respondent that the SEP has been fully implemented pursuant to the provisions of this CAFO and confirmation by the Meriden Fire Department that all required equipment has been obtained in accordance with Attachment 1; and (iv) a description of the environmental and public health benefits resulting from implementation of the SEP.

17. Respondent agrees that failure to submit the report required by Paragraph 16 shall be deemed a violation of this CAFO, and Respondent shall become liable for stipulated penalties pursuant to paragraph 20 below.

18. Respondent shall submit all notices, submissions, and reports required by this CAFO to Mr. Boal at the address set forth in Paragraph 13, by First Class mail or any other commercial delivery service.

19. After receipt of the SEP Completion Report described in Paragraph 16 above, EPA will notify Respondent in writing:

a. That EPA concludes that the SEP has been completed satisfactorily;

b. That EPA has determined that the project has not been completed satisfactorily and is specifying a reasonable schedule for correction of the SEP or the SEP Completion Report; or

c. That EPA has determined that the SEP does not comply with the terms of this CAFO and is seeking stipulated penalties in accordance with paragraph 20 herein. If EPA notifies Respondent pursuant to clause (b) above that the SEP itself or the SEP Completion Report does not comply with the requirements of this CAFO, Respondent shall make such corrections to the SEP and/or modify the SEP Completion Report in accordance with the schedule specified by EPA. If EPA notifies Respondent that the SEP itself does not comply with the requirements of this CAFO, Respondent shall pay stipulated penalties to EPA in accordance with Paragraph 20 herein.

20. Stipulated Penalties.

a. In the event that Respondent fails to comply with any of the terms or provisions of this CAFO relating to performance of the SEP, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

i. Except as provided in subparagraph (ii) below, for a SEP which has not been completed satisfactorily pursuant to this CAFO, Respondent shall pay a stipulated penalty to the United States in the amount which was supposed to be expended on the SEP, plus interest from the effective date of the CAFO.

ii. If the SEP is not completed in accordance with this CAFO, but EPA determines that the Respondent: (a) made good faith and timely efforts to complete the project; and (b) certifies, with supporting documentation, that 100 percent of the amount of money which was required to be spent was expended on the SEP, Respondent shall not be liable for any stipulated penalty.

iii. In the event that Respondent completes the SEP in accordance with Attachment 1 but the total expenditure for the SEP is less than \$25,000, Respondent may notify EPA of such circumstances and submit to EPA a request for approval of the purchase of additional equipment for the Meriden Fire Department that meets the objectives of the SEP and which cost will equal the difference between \$25,000 and the actual amount spent on the SEP. Respondent will order this additional equipment within thirty (30) days of approval from EPA and provide EPA with a purchase order for this equipment. If Respondent does not purchase additional equipment to bring the total expenditure for the SEP to \$25,000, Respondent shall pay a stipulated penalty to the United States in the amount equal to the difference between \$25,000 and the actual amount spent on the Project, plus interest from the effective date of the CAFO.

iv. For failure to submit the SEP Completion Report required by Paragraph 16 above, Respondent shall pay a stipulated penalty in the amount of \$100 for each day it is late until the Report is submitted.

b. The determinations of whether the SEP has been satisfactorily completed and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.

c. Stipulated penalties shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.

d. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions of Paragraph 12. Interest and late charges shall be paid as stated in paragraph 24.

21. Respondent certifies that, as of the date of this Consent Agreement, Respondent is not required to perform the SEP by any federal, state or local law or regulation, nor is Respondent required to perform the SEP under any grant or agreement with any governmental or private entity, as injunctive relief in this or any other case, or in compliance with state or local requirements. Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

22. Respondent certifies that it is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. Respondent further certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used

to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.

23. Respondent agrees that any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of the Clean Water Act."

General Provisions

24. Pursuant to Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6), a failure by Respondent to pay the penalty or any stipulated penalties assessed by this CAFO in full by the payment due date shall subject Respondent to a civil action to collect the assessed penalty, plus interest at current prevailing rates from the effective date of the CAFO. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Further, under Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321 (b)(6)(H), if Respondent fails to pay on a timely basis any CWA penalty payment assessed

by this CAFO, Respondent shall be required to pay, in addition to such amount and interest, attorney's fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of Respondent's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter. Interest will be assessed pursuant to 31 C.F.R. § 901.9(d), promulgated under 31 U.S.C. § 3717.

25. The penalty provided for herein is a penalty within the meaning of 26 U.S.C. § 162(f) and is not tax deductible for purposes of federal, state, or local law.

26. The provisions of this CAFO shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, and successors or assigns.

27. Respondent shall bear its own costs and attorney's fees in this proceeding. Respondent specifically waives any right to recover such costs from the Complainant pursuant to the Equal Access for Justice Act, 5 U.S.C. § 504, or other applicable laws.

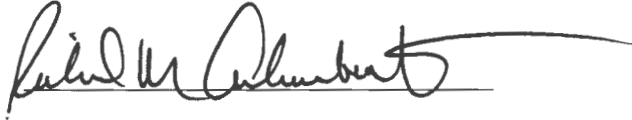
28. This CAFO shall not limit the authority of the United States to enforce the underlying substantive legal requirements of this administrative penalty assessment, whether administratively or judicially.

29. This CAFO does not constitute a waiver, suspension, or modification of the requirements of the CWA, 33 U.S.C. § 1251 *et seq.*, or any regulations promulgated thereunder.

30. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Sections 311(b)(3) and 311(j) of the CWA for the violations of the CWA specifically alleged in the Complaint. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations. This CAFO in no way relieves Respondent or its employees of any criminal liability. Nothing in this CAFO shall be construed to limit the authority of the United States to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public.


31. The undersigned representative of Respondent certifies that he or she is fully authorized by Respondent to enter into the terms and conditions of this CAFO and legally bind Respondent.

FOR RESPONDENT THE MILLER COMPANY, INC.



9/12/12
Date

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY



Susan Studlien, Director
Office of Environmental Stewardship
U.S. EPA, Region 1

09/21/12
Date

FINAL ORDER

32. The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. The Respondent is hereby ordered to comply with the terms of the above Consent Agreement, which will become final thirty (30) days from the date it is signed by the Regional Judicial Officer .

U.S. ENVIRONMENTAL PROTECTION AGENCY

on *Carl P. Metcalf*
Carl Dierker
Acting Regional Judicial Officer
U.S. EPA, Region 1

Date: *September 24, 2012*

Attachment 1
Consent Agreement and Final Order
Docket No. CWA 01-2012-0002
The Miller Company, Inc.

#4095685

Supplemental Environmental Project ("SEP") Equipment: The following SEP equipment was selected by the Meriden Fire Department ("MFD") to address emergency response needs of the MFD in an effort to further protect the environment, the public health and the safety of its responders. This SEP equipment will secure significant environmental and public health protection and benefits.

Item	Vendor	QTY	Price per Unit	25K Project
Decon Response Trailer - 8'x16' - The trailer has a 7000lb gross weight and can easily carry 4000lb of equipment, the interior height is 6'6", with vents on the side, 2 dome lights, and a heavy duty ramp gate with 5 hinges	Trailer Depot; 1037 Middletown Ave, Northford, CT 06472; http://www.thetrailerdepot.com; (203) 234-7788	1	\$ 7,250.00	\$ 7,250.00
BW Model# XTII 4-Gas Meters	FIRE EQUIPMENT HEADQUARTERS; 961 Migeon Avenue; Torrington, CT 06790 (860-489-5916)	6	\$ 799.00	\$ 4,794.00
BW Calibration kit	FIRE EQUIPMENT HEADQUARTERS; 961 Migeon Avenue; Torrington, CT 06790 (860-489-5916)	1	\$ 395.00	\$ 395.00
Pro-Pak Foam System; UM-12-NF	Shipmans Fire Equipment; 172 Cross Road; Waterford, CT 06385; 800-775-7332	2	\$ 1,075.00	\$ 2,150.00
Tyvek SL Deluxe Coveralls (150735) 2-XXXL; 4-XXL; 6-XL; 4-L; 2-M	Lab Safety Supply / Grainger ; 1-800-356-0783	24	\$ 68.85	\$ 1,652.40
HAZORB Booms (21130) 3-1/2" x 10' (pkg of 5)	Lab Safety Supply / Grainger ; 1-800-356-0783	2	\$ 59.25	\$ 118.50
SBC Re-Form Multiwik Sorbent Socks (161164) Package of 40	Lab Safety Supply / Grainger ; 1-800-356-0783	1	\$ 140.60	\$ 140.60
Haz-Mat Absorbant Pads - (153827) 15"x18" (Packages of 100)	Lab Safety Supply / Grainger ; 1-800-356-0783	9	\$ 77.70	\$ 699.30
HAZORB Pillows (17-370) 12 to pkg	Lab Safety Supply / Grainger ; 1-800-356-0783	2	\$ 41.20	\$ 82.40
Badger 2-1/2 Gallon AR-AFFF Foam Extinguishers (for quick knockdown of Haz-Mat fire:s)	Meriden Fire & Safety; Meriden, CT	5	\$ 185.00	\$ 925.00
Heavy duty Vehicle brackets for extinguishers	Meriden Fire & Safety; Meriden, CT	5	\$ 55.00	\$ 275.00
MSA Millenium CBRN Gas Mask Canisters (124463)	Lab Safety Supply / Grainger ; 1-800-356-0783	15	\$ 58.45	\$ 876.75
Allegro Confined Space Air Bag 12" (148927)	Lab Safety Supply / Grainger ; 1-800-356-0783	1	\$ 761.50	\$ 761.50
Saddle Vent Ventilation System 16060	Lab Safety Supply / Grainger ; 1-800-356-0783	1	\$ 292.25	\$ 292.25
Universal Mount for Vent System (16062)	Lab Safety Supply / Grainger ; 1-800-356-0783	1	\$ 67.80	\$ 67.80
10'x10' Instant Canopy - Aluminum (H-2674) (Used for Command Post and Rehab during Haz-Mat responses)	ULINE; 1-800-295-5510	1	\$ 299.00	\$ 299.00
3M Petroleum Sorbent Boom (T-280) Double boom 4"x10' - 4 per bale	FIRE EQUIPMENT HEADQUARTERS; 961 Migeon Avenue; Torrington, CT 06790 (860-489-5916)	2	\$ 200.00	\$ 400.00
Dreager Detection tubes Simultaneous Test Sets - #1 - Acids, Bases (86420)	Lab Safety Supply / Grainger ; 1-800-356-0783	1	\$ 99.80	\$ 99.80
Dreager Detection tubes Simultaneous Test Sets - #2 - Gases (86421)	Lab Safety Supply / Grainger ; 1-800-356-0783	1	\$ 97.80	\$ 97.80
Dreager Detection tubes Simultaneous Test Sets - #3 Alcohols, Hydrocarbons, MEK- (28565)	Lab Safety Supply / Grainger ; 1-800-356-0783	1	\$ 99.80	\$ 99.80
Rescue Randy Training Manikin - 165 Lbs 66585	Moore Medical Supplies; New Britain, CT 1-800-234-1464	1	\$ 1,257.00	\$ 1,257.00
600' PMI, 1/2" (12.5 mm) Colored rope Ref: O116X20 Arc Yellow/White (For Confined Space Rescue Response)	ROCK-N-RESCUE/J. E. Weinel, Inc. ; PO Box 213; Valencia, PA 16059 (800-346-7673)	1	\$ 780.10	\$ 780.10
	Sub-Total			\$ 23,514.00
	CT Sales tax 6.35			\$ 1,493.14
	Grand Total			\$ 25,007.14

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

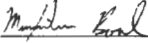
In the Matter of:)	
)	
The Miller Company, Inc.)	Docket No. CWA-01-2012-0002
275 Pratt Street)	
Meriden, CT 06450)	CERTIFICATE OF SERVICE
)	
Respondent.)	

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date noted below:

Original and One Copy (Hand-Delivered):	Wanda Santiago Regional Hearing Clerk U.S. EPA, Region I 5 Post Office Square, Suite 100 (ORA18-1) Boston, Massachusetts 02109-3912
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Copy (Certified Mail, Return Receipt Requested)	Diane C. Bellantoni, Esq. Murtha Cullina, LLP City Place I 185 Asylum Street 29 th Floor Hartford, CT 06103
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Dated: 9/24/2012



Maximilian Boal
Enforcement Counsel
U.S. EPA, Region I
5 Post Office Square, Suite 100 (OES04-2)
Boston, Massachusetts 02109-3912