



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

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RECEIVED
OFFICE OF
GENERAL COUNSEL

July 12, 2010

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 1
5 Post Office Square, Suite 100 (ORA18-1)
Boston, Massachusetts 02109

Re: In the Matter of United States Naval Submarine Base New London
Docket No. CWA-01-2009-0083

Dear Ms. Rivera:

Enclosed for filing in the above-referenced matter, please find the original and one copy of the Consent Agreement and Final Order. Thank you for your assistance in this matter.

Very truly yours,

A handwritten signature in blue ink that reads "Andrea Simpson".

Andrea Simpson
Senior Enforcement Counsel

Enclosure

cc: Donald Anglehart, Esq.
Greg Smith, Esq.

In the Matter of Draper Energy Co., Inc. and Energy North Incorporated
Docket No. CWA-01-2009-0083

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent to the following persons, in the manner specified, on the date below:

Original and one copy
hand-delivered:

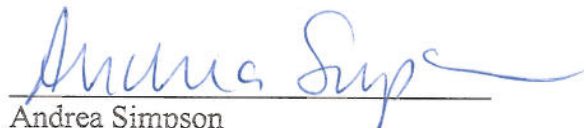
Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
Five Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02114-2023

Copy and a copy of the
Part 22 Rules by certified mail,
return receipt requested:

Donald Anglehart, Esq.
One Broadway, 14th Floor
Cambridge, MA 02142

Greg Smith, Esq.
McClane, Graf, Raulerson & Middleton
11 South Main Street, Suite 500
Concord, NH 03301

Dated: 7/12/10


Andrea Simpson
Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (OES4-2)
Boston, MA 02109
Tel: (617) 918-1738
Fax: (617) 918-0738
Email: simpson.andrea@epa.gov

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

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IN THE MATTER OF:)

DRAPER ENERGY)
COMPANY, INCORPORATED)
148 Forest Road)
Wilton, New Hampshire 03086)

ENERGY NORTH)
INCORPORATED)
1700 Shawsheen Street)
Tewksbury, Massachusetts 01876)

Respondents.)

Docket No. CWA-01-2009-0083

**CONSENT AGREEMENT AND
FINAL ORDER**

This Consent Agreement and Final Order ("CAFO") is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 311(b)(6)(B)(ii) of the Clean Water Act ("CWA" or "Act"), 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").

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding against Draper Energy Co., Inc. and Energy North Incorporated (“Respondents”) pursuant to Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6) by filing an Administrative Complaint, Docket No. CWA-01-2009-0083 (“Complaint”).

2. The Complaint alleges that Respondents’ violations of Sections 311(j) and 311(b)(3) of the CWA had subjected Respondents 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 incorporated herein by reference.

II. CONSENT AGREEMENT

4. Respondents stipulate 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 Respondents.

5. Respondents neither admit nor deny the specific factual allegations contained in the Complaint. As to any party not a signatory to this CAFO, the execution and/or performance of this CAFO does not constitute an admission by Respondents of any violations at the facility or allegations or conclusions of law alleged in the Complaint.

6. Respondents certify that they are no longer subject to the oil pollution prevention requirements of Section 311 of the CWA and the federal regulations promulgated thereunder at the facility, as defined in the Complaint.

Waiver of Rights

7. Respondents waive any defenses they might have as to jurisdiction and venue and consent to the terms of this CAFO including the assessment of the civil penalty as set forth herein.

8. Respondents waive their right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint.

9. Respondents waive their right to appeal the issuance of the Final Order as set forth in Section III of this CAFO, and consent to the issuance of such Final Order without further adjudication.

Penalty

10. For the purpose of settlement of this action, Complainant proposes and Respondents consent to the assessment of a civil penalty of \$49,000. Respondents shall each pay half of this amount.

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). Respondents shall pay a total penalty of \$49,000 which shall be due within 10 calendar days of the final date of the Final Order (i.e., 40 days after the date the Final Order is signed by the EPA Regional Judicial Officer).

12. Respondents shall make payment by cashier's or certified check, or check issued in the normal course of business operations, payable to "Environmental Protection Agency," and referencing the title and docket number of the action ("In the Matter of Draper Energy Co., Inc.

and Energy North Incorporated, CWA-01-2009-0083”) and “Oil Spill Liability Trust Fund - 311.” The payment shall be mailed to:

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

13. Respondents shall simultaneously submit a copy of the check referenced in paragraph 12 above to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100, ORA18-1
Boston, Massachusetts 02109-3912

and

Andrea Simpson, Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100, OES04-2
Boston, Massachusetts 02109-3912

14. Pursuant to Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H), failure by the Respondents to pay the penalty amounts relating to the CWA violations assessed by this CAFO in full by the date required shall subject the Respondents to a civil action to collect the assessed penalty, plus interest at the 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 Respondents fail to pay on a timely basis any CWA penalty payment assessed by this CAFO, Respondents shall be required to pay, in addition to such amount and interest, attorneys 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 Respondents' 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(b), promulgated pursuant to 31 U.S.C. § 3717.

15. 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.

16. The provisions of this CAFO shall be binding upon Respondents and Respondents' officers, directors, successors and assigns.

17. Respondents shall bear their own costs and attorneys fees in this proceeding.

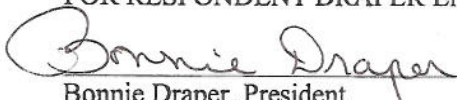
18. This CAFO shall not limit the authority of the United States to enforce the substantive legal requirements underlying this administrative penalty assessment, whether administratively or judicially.

19. 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.

20. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Sections 311(b) and (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 other actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondents to comply with such laws and regulations. Respondents understand that this CAFO constitutes a settlement of the civil matters alleged and does not have any applicability to any possible criminal liability, if any, of Respondents or their employees. Nothing in this CAFO shall be construed to limit the authority of the United States to undertake any action against Respondents in response to conditions which may present an imminent and substantial endangerment to the public.

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

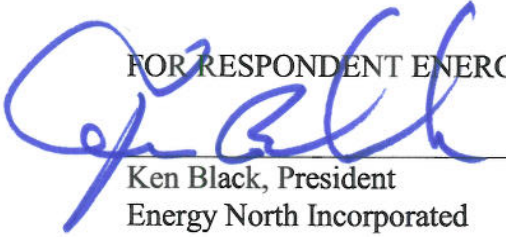
FOR RESPONDENT DRAPER ENERGY CO., INC.



Bonnie Draper, President
Draper Energy Co., Inc.

Date: 6-29-10

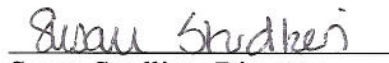
FOR RESPONDENT ENERGY NORTH INCORPORATED



Ken Black, President
Energy North Incorporated

Date: 6/4/10

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY


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


Date: 07/09/10

In the Matter of Draper Energy, Inc. and Energy North Inc.; CWA-01-2009-0083

III. FINAL ORDER

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



Jill Metcalf
Acting Regional Judicial Officer
U.S. EPA, Region 1

Date: July 12, 2010