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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

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BY HAND

September 27, 2011

Ms. Wanda Rivera
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region I
5 Post Office Square, Suite 100
Mail Code ORA17-1
Boston, MA 02109-3912

Re: Rowley Fuels, Inc. Consent Agreement and Final Order resolving
Administrative Penalty Action Settlement: Docket No. CWA-01-2011-0017

Dear Ms. Rivera:

For the above-referenced matter, please file the enclosed Consent Agreement and Final Order. I have included the original and one copy of these documents.

Thank you for your attention to this matter. Should you have any questions, please contact me at (617) 918-1780.

Sincerely,

A handwritten signature in blue ink that reads "Kathleen E. Woodward".

Kathleen E. Woodward
Senior Enforcement Counsel

Enclosure

cc: Scott Allard, President
Claudine Safar, Esq.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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Boston, MA 02109-3912**

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September 27, 2011

Jill Metcalf
Acting Regional Judicial Officer
U.S. EPA, Region I
5 Post Office Square, Suite 100
Mail Code ORA18-1
Boston, MA 02109-3912

Re: Rowley Fuels, Inc. Consent Agreement and Final Order resolving
Administrative Penalty Action Settlement: Docket No. CWA-01-2011-0017

Dear Ms. Metcalf:

In accordance with 40 C.F.R. § 22.18(b)(2), enclosed please find a Consent Agreement and Final Order settling the above-captioned action. The Consent Agreement has been signed by the parties and is now being submitted to you for approval.

EPA filed a complaint against Rowley Fuels, Inc., on June 6, 2011, alleging that the company had failed to maintain and fully implement a Spill Prevention, Control, and Countermeasure ("SPCC") plan under section 311 of the CWA at the company's fuel distribution facility located in Alburgh, Vermont. The settlement provides that the Respondents will pay a cash penalty of \$52,000.

The proposed penalty of \$52,000.00 in this matter is consistent with the "Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act" (August 1995) and the statutory penalty factors found in Section 311(b)(8) of the Clean Water Act, 33 U.S.C. § 1321(b)(8).

Public notice of this matter was provided as required by 40 C.F.R. § 22.45(b) on June 8, 2011 following complaint issuance. The close of the public comment period was July 7, 2011. EPA did not receive any public comments with respect to this matter.

the Act, 33 U.S.C. § 1321(b)(6)(B)(ii) and 40 C.F.R. § 19.4.

4. Respondent admits the allegations in the Administrative Complaint, incorporated by reference herein, and waives its right to a hearing under Section 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(ii), and to appeal this Consent Agreement and Final Order under Section 311(b)(6)(G)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(G)(ii).

CONSENT AGREEMENT

5. Based on the forgoing Stipulations and Findings, and taking into account the statutory penalty factors at Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8), and under the authority of Section 311(b)(6)(B)(ii), EPA hereby orders and Respondent hereby consents that:

Payment of Penalty

6. The Respondent shall pay a penalty of fifty-two thousand dollars (\$ 52,000) for the violations of the CWA specifically alleged in the Administrative Complaint and continuing through to the date of this Consent Agreement and Final Order.

7. Within 30 calendar days of the date of the Final Order, Respondent shall make payment of the amount specified in the preceding paragraph by a cashier's or certified check payable to "Environmental Protection Agency," and referencing the title and docket number of this action ("In the Matter of Rowley Fuels, Inc., CWA-01-2011-0017") 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

8. Respondent shall simultaneously submit copies of the penalty payment check to:

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

and

Kathleen E. Woodward
Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (OES04-2)
Boston, MA 02109-3912

9. Pursuant to Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H), failure by the Respondent to pay the penalty amounts relating to the CWA violations assessed by this Consent Agreement and Final Order in full by the date required shall subject the Respondent to a civil action to collect the assessed penalty, plus interest at the prevailing rates from the effective date of the Consent Agreement and Final Order. 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 Consent Agreement and Final Order, Respondent 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 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(b), promulgated pursuant to 31 U.S.C. § 3717.

10. 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.

General Provisions

11. The provisions of this Consent Agreement and Final Order shall be binding upon Respondent, its officers, directors, agents, and successors or assigns.

12. Respondent shall bear its own costs and attorneys fees in this proceeding.

13. Issuance of this Consent Agreement and Final Order constitutes a settlement by EPA of all claims for judicial or administrative civil penalties pursuant to Sections 311(b)(6) or (b)(7) of the CWA, 33 U.S.C. §§ 1321(b)(6) or (b)(7), for the violations of the CWA specifically alleged in the Complaint and continuing through to the date of the Consent Agreement and Final Order.

14. This Consent Agreement and Final Order 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.

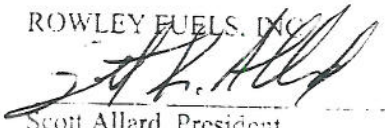
15. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*, or any regulations promulgated thereunder.

16. This Consent Agreement and Final Order constitutes a settlement by EPA of all claims for civil penalties pursuant to Sections 311(b)(6) of the CWA for the violations of the

CWA specifically alleged in the Complaint. Compliance with this Consent Agreement and Final Order 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. Respondent understands that this Consent Agreement and Final Order constitutes a settlement of the civil matters alleged and does not have any applicability to any possible criminal liability, if any, of Respondent or its employees. Nothing in this Consent Agreement and Final Order 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.


17. The undersigned representative of Respondent certifies that he or she is fully authorized by Respondent to enter into the terms and conditions of this Consent Agreement and Final Order and legally bind Respondent.

ROWLEY FUELS, INC.


Scott Allard, President

9-2-11
Date

U.S. ENVIRONMENTAL PROTECTION AGENCY



Susan Studien, Director
Office of Environmental Stewardship

09/23/11
Date

FINAL ORDER

Pursuant to Section 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(ii) and in accordance with 40 C.F.R. Part 22, the forgoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby ordered to comply with the terms of the above Consent Agreement. This Order shall become Final 30 calendar days from the date it is signed by the Regional Judicial Officer, pursuant to Section 311(b)(6)(D) of the CWA, 33 U.S.C. § 1321(b)(6)(D).

U.S. ENVIRONMENTAL PROTECTION AGENCY



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



Date

In the Matter of Rowley Fuels, Inc.
Docket No. CWA-01-2011-0017

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
5 Post Office Square, Suite 100
Mail Code ORA18-1
Boston, MA 02109-3912

Copy and by certified mail
return receipt requested:

Scott Allard, President
Rowley Fuels, Inc.
P.O. Box 21
10 Main Street
Milton, VT 05468

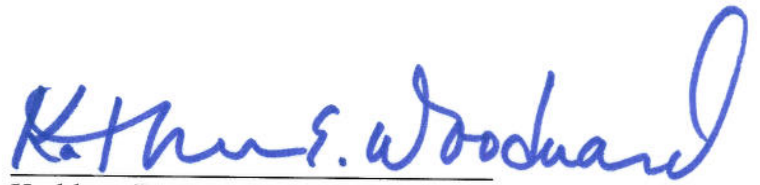
Leslie Rowley, Registered Agent
Rowley Fuels, Inc.
P.O. Box 21
10 Main Street
Milton, VT 05468

Copy by first class mail:

Claudine C. Safar, Esq.
Walsh & Monaghan, LLP
156 Battery Street
Burlington, VT 05401

Susan L. Biro
Chief Administrative Law Judge
U.S. EPA
Office of Administrative Law Judges
1200 Pennsylvania Ave., N.W., Mail Code 1900L
Washington, DC 20460

Dated: September 29, 2011



Kathleen E. Woodward
Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (OES04-2)
Boston, MA 02109-3912
Tel: (617) 918-1780
Fax: (617) 918-0780
Email : woodward.kathleen@epa.gov