

**EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS**

This form was originated by Wanda I. Santiago for Maximilian Boal 3/22/11  
Name of Case Attorney Date

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

Case Docket Number CWA-01-2010-0048

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:

Montreal Maine & Atlantic Railway, Ltd.  
18 B & A Avenue  
Milo, ME 04463

Total Dollar Amount of Receivable \$ 30,000 Due Date: 4/21/11

SEP due? Yes \_\_\_\_\_ No  Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:

1<sup>ST</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

2<sup>nd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

5<sup>th</sup> \$ \_\_\_\_\_ 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  
MAR 22 2011  
EPA ORC WS  
Office of Regional Hearing Clerk

March 22, 2011

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 the Matter of Montreal Maine & Atlantic Railway, Ltd.  
CWA-01-2010-0048

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,

Maximilian Boal  
Enforcement Counsel

Enclosure

cc: Robert Grindrod, CEO of Montreal Maine & Atlantic Railway, Ltd.  
Phillip Buckley, Esq., Attorney for Respondent

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

RECEIVED  
MAR 22 2010  
EPA ORG WS  
Office of Regional Hearing Clerk

\_\_\_\_\_)  
IN THE MATTER OF: )  
)  
) Docket No. CWA-01-2010-0048  
)  
)  
MONTREAL MAINE & )  
ATLANTIC RAILWAY, LTD. )  
18 B&A Avenue )  
Milo, ME 04463 )  
)  
)  
)  
Respondent. )  
\_\_\_\_\_)

**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 Montreal Maine & Atlantic Railway, Ltd. (“Respondent”) pursuant to Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6) by filing an Administrative Complaint, Docket No. CWA-01-2010-0048 (“Complaint”).

2. The Complaint alleges that Respondent's violations of Sections 311(j) and 311(b)(3) 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 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 a 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 \$30,000.

### Payment Terms

11. Respondent shall pay a total penalty of \$30,000, plus interest (calculated at 3%) on any penalty payment amounts not paid within 10 days of the final date of the CAFO, pursuant to 31 U.S.C. § 371 and 31 C.F.R. § 901.9(b), according to the following schedule:

- a. \$10,000 shall be due within 10 calendar days of the final date of this CAFO;
- b. \$10,300 (i.e. \$10,000 principle, plus \$300 in interest) shall be due within 6 months of the final date of this CAFO;
- c. \$10,125 (i.e. \$10,000 principle, plus \$125 in interest) shall be due within 12 months of the final date of this CAFO;
- d. Acceleration Clause: if Respondent fails to make any payment as described above, all remaining installments shall become immediately due and payable as of the missed payment date. Interest on such unpaid penalty amounts shall accrue from the missed payment date.

12. In agreeing to the penalty described in paragraph 11 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), particularly the economic impact of the penalty upon the Respondent. Respondent shall pay a total penalty of \$30,000 plus interest which shall be due in accordance with the payment schedule described in paragraph 11.

13. Respondent 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 Montreal Maine & Atlantic Railway, Ltd., CWA-01-2010-0048”) 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

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

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

and

Maximilian Boal, 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

15. 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 CAFO 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 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, 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.

16. 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.

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

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

19. 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.

20. 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.

21. 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 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 CAFO 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 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.



22. 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 MONTREAL MAINE & ATLANTIC RAILWAY, LTD.



Robert Grindrod, CEO  
Montreal Maine & Atlantic Railway, Ltd.

Date: MARCH 3, 2011

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY



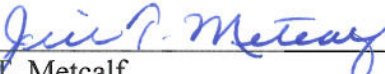
Susan Studlien, Director  
Office of Environmental Stewardship  
U.S. EPA, Region 1

Date: 03/18/11

### III. FINAL ORDER

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

Date: March 22, 2011

**In the Matter of Montreal Maine & Atlantic Railway, Ltd.  
CWA-01-2010-0048**

**CERTIFICATE OF SERVICE**

I certify that the foregoing Consent Agreement and Final Order was transmitted 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 I  
5 Post Office Square, Suite 100  
Mail Code: ORA18-1  
Boston, MA 02109-3912

Copy by certified mail, return receipt  
requested:

Robert Grindrod, CEO  
Montreal Maine & Atlantic Railway  
15 Iron Road  
Bangor, ME 04401

Phillip D. Buckley, Esq.  
Rudman Winchell  
The Graham Building  
84 Harlow Street  
P.O. Box 1401  
Bangor, ME 04402-1401

Dated: March 22, 2011



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Maximilian Boal  
Enforcement Counsel  
U.S. EPA – Region I  
5 Post Office Square, Suite 100  
Mail Code: OES04-2  
Boston, MA 02109-3912