

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Laura J. Beveridge 3/5/13
Name of Case Attorney Date

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

Case Docket Number CAA-01-2012-0085

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 Moore Company
(FulFlex Division)

Total Dollar Amount of Receivable \$ 198,500 Due Date: 5/4/13

SEP due? Yes _____ No _____ Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

- 1st \$ 99,250 on 4/4/13
- 2nd \$ 99,250 on 5/4/13
- 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

2013 MAR -5 A 9:51

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK
Reply to: (617) 918-1345
Fax: (617) 918-0345
Mail Code: OES 04-3

March 5, 2013

BY HAND

Wanda Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 1 (ORA 18-1)
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Re: *In the Matter of The Moore Company (Fulflex Division)*, Docket No. CAA-01-2012-0085

Dear Ms. Santiago:

Enclosed for filing are the following original documents, and one copy of each, relating to the above-referenced matter:

- i) Consent Agreement and Final Order; and
- ii) Certificate of Service.

Very truly yours,

A handwritten signature in black ink, appearing to read "Laura J. Beveridge".

Laura J. Beveridge
Enforcement Counsel

Enclosures

cc: Robin Main, Esq., Hinckley, Allen & Snyder LLP

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

RECEIVED

2013 MAR -5 A 9:51

IN THE MATTER OF)

THE MOORE COMPANY)
(FULFLEX DIVISION))

Respondent.)

Docket No. CAA-01-2012-0085

CONSENT AGREEMENT
AND FINAL ORDER

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

CONSENT AGREEMENT

Complainant, the United States Environmental Protection Agency ("EPA"), having filed an Administrative Complaint and Notice of Opportunity for Hearing ("Complaint") against Respondent, The Moore Company (Fulflex Division), on September 19, 2012, and Respondent having moved for and received extensions to file an Answer and Request for Hearing until February 28, 2013, hereby agree that settlement of this matter is in the public interest and that entry of this Consent Agreement and Final Order ("CAFO") without further litigation is the most appropriate means of resolving this matter.

STATUTORY AND REGULATORY AUTHORITY

1. This CAFO resolves an administrative action for the assessment of penalties under Section 113(d) of the Clean Air Act ("CAA" or "Act"), 42 U.S.C. § 7413(d).
2. The Complaint alleges that Respondent violated various conditions of Air Pollution Control Permit to Construct and Operate #AOP-09-024 issued by the Vermont Department of Environmental Conservation ("VTDEC") on November 16, 2009.
3. In addition, the Complaint alleges that Respondent violated 40 C.F.R. § 82.166(k), which requires owners and operators of appliances containing more than 50 pounds

of a listed refrigerant to keep service records documenting the date and type of service as well as the quantity of refrigerant added.

TERMS OF SETTLEMENT

4. The provisions of this CAFO shall apply to and be binding on Respondent and its officers, directors, successors, and assigns.

5. 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. Respondent waives any defenses it might have as to jurisdiction and venue and, without admitting or denying the factual and legal allegations contained in the Complaint, consents to the terms of this CAFO.

6. Respondent hereby waives the right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint and the right to appeal the Final Order.

7. Respondent hereby certifies that it submitted a permit amendment application to VTDEC and that a draft permit has been issued (#AOP-12-036). Respondent represents that it is currently acting in compliance with the terms and conditions of the draft permit in existence as of the effective date of this CAFO and that it will act in compliance with the terms and conditions of the final permit when issued by VTDEC. Respondent further represents that it is acting in compliance with the provisions of the CAA, 42 U.S.C. § 7401, *et seq.*

8. Respondent shall pay a civil penalty of \$198,500 for the violations alleged in this matter.

9. Respondent shall pay the civil penalty of \$198,500 in two installments. Within thirty (30) days, and then again within sixty (60) days, of the date this CAFO is filed with the Regional Hearing Clerk, Respondent shall submit a cashier's, certified, or corporate check in the

amount of \$99,250 made payable to the order of the "Treasurer, United States of America" and referencing the case name and the docket number of this action on its face, to:

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

In addition, at the time of each payment, Respondent shall simultaneously send notice of the payment and copies of the check to:

Wanda Santiago
Regional Hearing Clerk (Mail Code ORA 18-1)
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

and

Laura Beveridge
Enforcement Counsel (Mail Code OES 04-3)
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

10. If Respondent fails to make any of the payments required by Paragraph 9 by the due dates specified therein, the total penalty amount of \$198,500, plus all accrued interest as calculated pursuant to Paragraph 11 (less payments already made, if any), shall become immediately due to the United States upon such failure.

11. Pursuant to Section 113(d)(5) of the CAA, if Respondent fails to pay any penalty amount it will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Interest will be assessed on the penalty if it is not paid by the due dates established herein. In that event, interest will accrue from the date the CAFO is signed by the Regional Judicial Officer, at the "underpayment rate" established pursuant to 26 U.S.C

§ 6621(a)(2). In the event that the penalty is not paid when due, an additional charge will be assessed to cover the United States' enforcement expenses, including attorneys fees and collection costs. A quarterly nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter.

12. The civil penalty provided under this CAFO, and any interest, nonpayment penalties and charges described in this CAFO, shall represent penalties assessed by EPA within the meaning of 26 U.S.C. § 162(f) and are not tax deductible for purposes of federal, state, or local law. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agrees not to use those payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

13. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), for the violations 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 for matters not addressed in the Complaint or this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state, or local law.

14. Except as specifically settled herein, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this CAFO or of the statutes and regulations upon which the Complaint and this CAFO are based, or for Respondent's violation of any applicable provision of law.

15. This CAFO in no way relieves Respondent or its employees of any criminal liability. EPA reserves all other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

16. This CAFO shall not relieve Respondent of its obligations to comply with all applicable provisions of federal, state, or local law; nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

17. The Parties shall bear their own costs and fees in this action, including attorneys fees, and specifically waive any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

18. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

U.S. Environmental Protection Agency:

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

Date: 03/01/13

The Moore Company (Fulflex Division)

By: Alexandra Moore


Alexandra Moore

Date: 2/13/13

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondent is hereby ordered to comply with the terms of the above Consent Agreement, effective on the date of filing with the Regional Hearing Clerk.

Date: 3/4/13



LeAnn Jensen
Acting Regional Judicial Officer
U.S. Environmental Protection Agency, Region I

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

IN THE MATTER OF)	
)	
THE MOORE COMPANY)	
(FULFLEX DIVISION))	Docket No. CAA-01-2012-0085
)	
Respondent.)	
)	

CERTIFICATE OF SERVICE

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

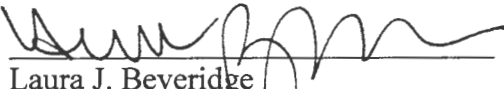
Original and one copy,
hand-delivered:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I (ORA18-1)
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Copy, by Certified Mail,
Return Receipt Requested:

Robin Main
Attorney for Respondent
Hinckley, Allen, & Snyder LLP
50 Kennedy Plaza, Suite 1500
Providence, RI 02903-2319

Dated: 3/5/13



Laura J. Beveridge
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (OES04-3)
Boston, MA 02109-3912
Tel (617) 918-1345
Fax (617) 918-0345