

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for

Tonia Bandrawicz
Name of Case Attorney

3/16/12
Date

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

Case Docket Number CWA-01-2011-0123

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:

BOSFuel Corporation and Swissport
Fueling, Inc.
4333 Amon Carter Blvd.
Fort Worth, TX 75261

Total Dollar Amount of Receivable \$ 90,000 Due Date: 5/14/12

SEP due? Yes No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1ST \$ _____ 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 I

5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

RECEIVED

2012 MAR 16 A 9:19

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK
WS

March 16, 2012

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

BY HAND

Re: CWA Consent Agreement and Final Order
BOSFuel Corporation and Swissport Fueling, Inc., Boston, MA
Docket No. CWA-01-2011-0123

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 settling this case.

Thank you for your attention to this matter.

Sincerely,


Tonia Bandrowicz
Senior Enforcement Counsel

Enclosure

cc: Lloyd W. Landreth, Esq.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

RECEIVED
2012 MAR 16 A 9:19

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK
WS

IN THE MATTER OF:)
)
)
BOSFuel Corporation)
c/o American Airlines)
4333 Amon Carter Blvd.)
Fort Worth, TX 75261)
)
and)
)
Swissport Fueling, Inc.)
45025 Aviation Drive, Suite 350)
Dulles, VA 20166,)
)
Respondents)
_____)

**CONSENT AGREEMENT
AND FINAL ORDER**

Docket No. CWA 01-2011-0123

I. INTRODUCTION

This Consent Agreement is proposed and entered into under the authority vested in the U.S. 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").

II. PRELIMINARY STATEMENT

1. EPA initiated this proceeding against BOSFuel Corporation and Swissport Fueling, Inc. ("Respondents") pursuant to Section 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(ii),

by filing an Administrative Complaint, Docket No. CWA-01-2011-0123 (“Complaint”) on September 27, 2011.

2. The Complaint alleges that Respondents’ violations of Sections 311(j) of the CWA have subjected Respondents to administrative penalties up to the statutory maximum authorized under the CWA. The Complaint did not allege the release of any hazardous substance to waters of the United States or the State of Massachusetts.

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

4. Section 311(b)(6)(C) of the CWA, 33 U.S.C. § 1321(b)(6)(C), and 40 C.F.R. § 22.45(b) provide that, prior to issuing an order assessing a penalty under Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6), EPA must provide public notice of, and reasonable opportunity to comment on, the proposed issuance of such order. EPA has satisfied this requirement by providing public notice of, and reasonable opportunity to comment on, the proposed penalty from October 3, 2011 to November 1, 2011. EPA has received no public comments regarding this matter.

III. CONSENT AGREEMENT

5. 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.

6. This CAFO represents a compromise of disputed claims. Respondents admit the jurisdictional allegations of the Complaint. Respondents and EPA do not intend the agreements consented to herein by the Parties to be used by any third-party as evidence of any factual

allegation as Respondents neither admit nor deny specific factual allegations contained in the Complaint.

7. Respondents certify that they are currently operating and will continue to operate the facility described in the Complaint in compliance with Section 311 of the CWA and the Oil Pollution Prevention Regulations at 40 C.F.R. Part 112 promulgated thereunder.

Waiver of Rights

8. Respondents waive any defenses they may have as to jurisdiction and venue and consent to the terms of this Consent Agreement and Final Order (“CAFO”).

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

10. Respondents waive their rights to appeal any Final Order in this matter, and consent to the issuance of a Final Order without further adjudication.

11. 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

12. The Respondent shall pay a penalty of \$ 90,000 for the violations of the CWA specifically alleged in the Complaint and continuing through to the date of this CAFO.

13. 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 BOSFuel Corporation and Swissport Fueling, Inc., CWA-01-2011-0123”) 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

14. Respondents shall simultaneously submit copies of the penalty payment check to:

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

and

Tonia Bandrowicz
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (OES04-3)
Boston, MA 02109-3912

15. 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.

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 Respondents and Respondents' officers, directors, and successors or assigns.

18. Except as described in Paragraph 15 above, each party 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 Section 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 Respondents in response to conditions which may present an imminent and substantial endangerment to the public.

22. The undersigned representative of Respondents certify 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 BOSFuel Corporation:

_____ Date: _____

FOR RESPONDENT Swissport Fueling, Inc.:

_____ Date: _____

FOR COMPLAINANT U.S. Environmental Protection Agency:

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

Date: 03/14/12

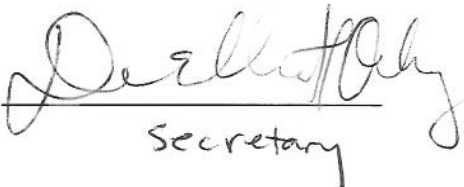
to limit the authority of the United States to undertake any action against Respondents in response to conditions which may present an imminent and substantial endangerment to the public.

22. The undersigned representative of Respondents certify 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 BOSFuel Corporation:

_____ Date: _____

FOR RESPONDENT Swissport Fueling, Inc.:


Secretary Date: 03-18-2012

FOR COMPLAINANT U.S. Environmental Protection Agency:

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

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.

22. The undersigned representative of Respondents certify 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 BOSFuel Corporation:

Howard H. Haglund, Jr.

Date: MARCH 8TH 2012

FOR RESPONDENT Swissport Fueling, Inc.:

Date: _____

FOR COMPLAINANT U.S. Environmental Protection Agency:

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

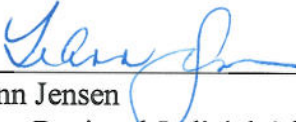
Date: _____

FINAL ORDER

In accordance with 40 C.F.R. § 22.18(b), the forgoing Consent Agreement is hereby approved and incorporated by reference into this Final Order.

Respondent is ordered to comply with the terms of the referenced Consent Agreement. This Final Order shall become final 30 days from today pursuant to Section 311(b)(6)(D) of the CWA, 33 U.S.C. § 1321(b)(6)(D).

U.S. ENVIRONMENTAL PROTECTION AGENCY



LeAnn Jensen
Acting Regional Judicial Officer
U.S. EPA, Region 1

Date: 3/15/12

**In the Matter of BOSFuel Corporation and Swissport Fueling, Inc.
CWA-01-2011-0123**

CERTIFICATE OF SERVICE

I certify that the foregoing consent agreement and final order in the above-referenced case 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:

Lloyd W. Landreth
Landreth Law Firm PLC
801 East B Street
Jenks, OK 74037-4307
Ph 918-296-0460
Fax 918-296-0404

Dated: _____

3/16/12


_____ for

Tonia Bandrowicz
Senior Enforcement Counsel
U.S. EPA – Region I
5 Post Office Square, Suite 100
Mail Code: OES04-4
Boston, MA 02109-3912
671-918-1734
bandrowicz.toni@epa.gov