

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for John Kilborn 11-5-14
Name of Case Attorney Date

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

Case Docket Number CAA 01-2014-0001

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:

Jennifer Cervenka, Esq.
Partridge, Snow + Hahn, LLP
40 Westminister St, Suite 1100
Providence, RI 02903

Total Dollar Amount of Receivable \$ 81,200.00 Due Date: _____

SEP due? Yes _____ No Date Due _____

Installment Method (if applicable)

- INSTALLMENTS OF:
- 1st \$ 20,000 on 12-5-14
 - 2nd \$ 30,750 on 5-4-15
 - 3rd \$ 30,450 on 11-31-15
 - 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



U. S. ENVIRONMENTAL PROTECTION AGENCY – NEW ENGLAND
5 POST OFFICE SQUARE, SUITE 100 (OES04-3)
BOSTON, MA 02109-3912

November 5, 2014

HAND DELIVERY

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

Re: *In the Matter of Copar Quarries of Westerly, LLC/Docket CAA 01-2014-0001*

Dear Ms. Santiago:

Attached for filing in the above-referenced matter are an original and one copy of a Consent Agreement and Final Order (“CAFO”) that the U.S. Environmental Protection Agency, Region 1 (“EPA”) has entered into with the Respondent. The CAFO has been signed by all parties and the Acting Regional Judicial Officer. Also attached are an original and one copy of a Certificate of Service.

EPA has also sent copies of the CAFO, the Certificate of Service, and this letter to the Respondent by certified mail and email

Thank you for your assistance. Please call me if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "John W. Kilborn".

John W. Kilborn
Senior Enforcement Counsel

cc: Jennifer Cervenka, Counsel for Respondent
Tom McCusker, EPA

NOV - 5 2014

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 1

EPA ORC
 Office of Regional Hearing Clerk

)
 IN THE MATTER OF)

Copar Quarries of Westerly, LLC)
 (to be merged into Armetta, LLC))
 271 Church Street)
 Bradford, Rhode Island 02808)

Respondent.)
 _____)

Docket No. CAA-01-2014-0001

**CONSENT AGREEMENT
 AND FINAL ORDER**

CONSENT AGREEMENT

Complainant, the United States Environmental Protection Agency (“EPA”), having filed on November 18, 2013 an *Administrative Complaint and Notice of Opportunity for Hearing* (“Complaint”) against Respondent, Copar Quarries of Westerly, LLC (which will be merged into Armetta, LLC), and Respondent having filed on April 21, 2014, an *Answer To Administrative Complaint*, which requested a hearing in this matter, 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 requirements of the *Standards of Performance for Nonmetallic Mineral Processing Plants* (“Nonmetallic Mineral Processing NSPS” or “NSPS”), found at 40 C.F.R. Part 60, Subpart OOO. Respondent filed an Answer in which it denies that it violated the NSPS.

TERMS OF SETTLEMENT

3. The provisions of this CAFO shall apply to and be binding upon EPA and Respondent and its officers, directors, successors, and assigns, including, without limitation, Armetta, LLC. The “Effective Date” of this CAFO shall mean the date that this CAFO is filed with the Regional Hearing Clerk, as described in the Final Order attached hereto.

4. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint. Respondent waives any defenses it might have as to jurisdiction and venue, and, without admitting or denying the factual allegations or liability for violations set forth in the Complaint, the administrative order EPA issued to Respondent on January 28, 2013 (the “AO”) and the EPA Inspection Report dated September 20, 2012 (the “Inspection Report”), consents to the terms of this CAFO.

5. 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.

6. Respondent represents that it is currently acting in compliance with the terms and conditions of the NSPS.

7. For purposes of settlement only, Respondent consents to the payment of eighty thousand dollars (\$80,000) as a civil administrative penalty assessed by the EPA for the violations alleged by EPA under the NSPS.

8. Respondent shall pay the aforesaid amount of eighty thousand dollars (\$80,000) in three installments as follows:

- a. Within thirty (30) days of the Effective Date, Respondent shall pay twenty thousand dollars (\$20,000);

- b. Within one hundred and eighty (180) days of the Effective Date, Respondent shall pay thirty thousand dollars (\$30,000), plus calculated interest of seven hundred and fifty dollars (\$750), for a total payment of thirty thousand, seven hundred and fifty dollars (\$30,750); and
- c. Within three hundred and sixty (360) days of the Effective Date, Respondent shall pay thirty thousand dollars (\$30,000), plus calculated interest of four hundred and fifty dollars (\$450), for a total payment of thirty thousand, four hundred and fifty dollars (\$30,450).

Respondent shall submit its payments by a cashier's, certified, or corporate check made payable to the order of the "Treasurer, United States of America," 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

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

9. If Respondent fails to make any of the payments required by Paragraph 8 by the due dates specified therein, the total amount of \$80,000, plus all calculated interest, plus accrued interest as calculated pursuant to Paragraph 10 (less payments already made, if any), shall become immediately due to the United States upon such failure.

10. Pursuant to Section 113(d)(5) of the CAA, if Respondent fails to pay any amount due hereunder, it will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Interest will be assessed on such amount 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 payments and nonpayment penalties hereunder accrued as of the beginning of such quarter.

11. The amount paid towards the assessed civil penalty as provided under this CAFO, and any interest, nonpayment penalties and charges described in this CAFO 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 falling 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.

12. This CAFO constitutes a settlement by EPA of all claims for civil administrative penalties pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), for the violations alleged in the Complaint and identified in the AO. 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, the AO, or in this CAFO with respect to violation of the NSPS. 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.

13. 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 within EPA's jurisdiction.

14. 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 in the future present an imminent and substantial endangerment to the public health, welfare, or the environment.

15. 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.

16. Documents have been prepared and submitted to the Rhode Island Division of Taxation for a Tax Good Standing Certificate in order to merge Copar Quarries of Westerly, LLC into Armetta, LLC with the Rhode Island Secretary of State, with Armetta, LLC as the surviving corporation. Accordingly, Armetta, LLC is executing this CAFO, in addition to Respondent, as Armetta, LLC will, and expressly agrees to, assume the liabilities and responsibilities of Copar Quarries of Westerly, LLC hereunder. 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.

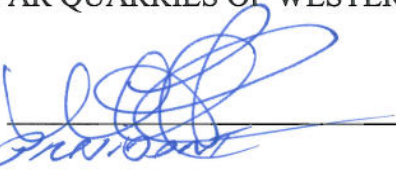
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U.S. ENVIRONMENTAL PROTECTION AGENCY:

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

Date: 10/31/14

COPAR QUARRIES OF WESTERLY, LLC

By:  _____

Date: 10-21-14

ARMETTA, LLC

By:  _____

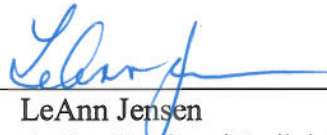
Date: 10-24-14

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b) of the United States Environmental Protection Agency's Consolidated Rules of Practice, the parties to this matter have forwarded an executed Consent Agreement to me for final approval. In accordance with 40 C.F.R. § 22.18(b) and Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the foregoing Consent Agreement resolving this matter is hereby incorporated by reference into this Final Order and is hereby ratified. Respondent, Copar Quarries of Westerly, LLC, and Armetta, LLC, are ordered to pay the assessed civil penalty amount specified in the Consent Agreement (\$80,000) in the manner indicated. The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

Date: _____

11/4/14



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

EPA DOCKET NO.: CAA-01-2014-0001
In Re: Copar Quarries of Westerly, LLC

CERTIFICATE OF SERVICE

I hereby certify that a Consent Agreement and Final Order have been sent to the following persons on the date and in the manner noted below:

Original and one copy,
hand-delivered:

Ms. Wanda Santiago, Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3812

Copy, by Certified Mail:

Jennifer Cervenka, Esq.
Partridge, Snow & Hahn, LLP
40 Westminister Street, Suite 1100
Providence, RI 02903

Dated: 11/5/2014



John W. Kilborn
Senior Enforcement Counsel
U.S. Environmental Protection Agency,
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3812
(617) 918-1893
Kilborn.john@epa.gov