

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Kathleen Woodward 1/31/11
Name of Case Attorney Date

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

Case Docket Number CWA-01-2011-0059

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:

Mt. Tom Generating Co., LLC
Route 5, Smith's Ferry
Holyoke, MA 01040

Total Dollar Amount of Receivable \$ 40,814.00 Due Date: 2/17/11

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, MA 02109-3912

RECEIVED

JAN 31 2011

EPA ORC
Office of Regional Hearing Clerk

BY HAND

January 31, 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: In the Matter of: Mt. Tom Generating Co., LLC
Consent Agreement and Final Order
Docket No. CWA-01-2010-0059

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: James Ginnetti, Vice President
Capitol Corporate Services, Inc.
Mark R. Sussman, Esq.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

RECEIVED

JAN 31 2010

EPA ORC WS
Office of Regional Hearing Clerk

IN THE MATTER OF)

Mt. Tom Generating Company, LLC)
Route 5, Smith's Ferry)
Holyoke, Massachusetts 01040)

Respondent.)
_____)

CONSENT AGREEMENT
AND FINAL ORDER

Docket No. CWA 01-2010-0059

This Consent Agreement and Final Order ("CAFO") is issued under the authority granted to the U.S. Environmental Protection Agency ("EPA") by Section 309(g) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1319(g), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," at 40 C.F.R. Part 22 ("Part 22 Rules").

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding against the Respondent pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), by filing an administrative Complaint against Respondent, Docket No. CWA-01-2010-0059 (the "Complaint"), on September 30, 2010.
2. The complete factual and jurisdictional basis for proposing the assessment of a civil penalty is set forth in the Complaint and is incorporated herein by reference. Respondent's legal position regarding the Complaint is set forth in its Answer to the Complaint.

CONSENT AGREEMENT AND FINAL ORDER
U.S. EPA Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Docket No. CWA-01-2010-0059

3. Pursuant to Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), the Commonwealth of Massachusetts has been given an opportunity to consult with EPA regarding the assessment of the administrative penalty for CWA violations against Respondent.
4. Section 309(g)(4)(A) of the CWA, 33 U.S.C. 1319(g)(4)(A), provides that, prior to issuing an order assessing a penalty under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), 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 4, 2010 through November 3, 2010. EPA received no comments on the proposed penalty during the public comment period.

II. CONSENT AGREEMENT

5. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint.
6. Respondent waives any defenses it might have as to jurisdiction and venue, and, without admitting or denying the facts and violations alleged in the Complaint, consents to the terms of this CAFO.

III. WAIVER OF RIGHTS

7. Respondent hereby waives its right to request a judicial or administrative hearing on any issue of law or fact set forth in the Complaint, and consents to the issuance of the Final Order included with this Consent Agreement without further adjudication.

IV. PENALTY

8. Based upon the statutory penalty factors at Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), EPA has determined that an appropriate civil penalty to settle this action is in the amount of forty thousand eight-hundred and fourteen dollars (\$40,814.00).

V. PAYMENT TERMS

9. Respondent shall pay the civil penalty set forth in Paragraph 8 of this CAFO no later than 30 calendar days after this CAFO is final.
10. Respondent shall make payment by depositing in the United States mail a cashier's or certified check, payable to the order of "Treasurer, United States of America" and referencing the title and docket number of the action ("In the Matter of Mt. Tom Generating Company, LLC, CWA-01-2010-0059") to:

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

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

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

and

Kathleen E. Woodward
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100
Mail Code OES4-2
Boston, MA 02109-3912

VI. General Provisions

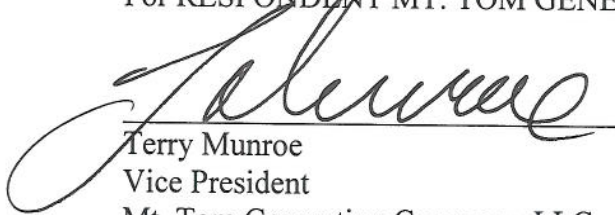
12. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), a failure by Respondent to pay the penalty assessed by this CAFO in full by the payment due date shall subject Respondent to a civil action to collect the assessed penalty, plus interest at current prevailing rates from the date the penalty was due pursuant to Paragraph 9 of this CAFO. The rate of interest assessed shall be at the rate set forth in 31 C.F.R. § 901.9(d), promulgated under 31 U.S.C. § 3717. Any person who fails to pay on a timely basis the amount of an assessed penalty shall be required to pay in addition to such amount and interest, attorney's fees, 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 20 percent of the aggregate amount of such person's penalties and nonpayment penalties which

are unpaid as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

13. The penalty specified in Paragraph 8 above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.
14. The provisions of this CAFO shall be binding upon Respondent and its successors or assigns.
15. Except as described in Paragraph 12 above, each party shall bear its own costs and attorneys fees in this proceeding.
16. Issuance of this CAFO constitutes a full and complete settlement by EPA of all claims for judicial and administrative civil penalties pursuant to Sections 309(d) and (g) of the CWA, 33 U.S.C. §§ 1319(d) and (g), for all past violations of the CWA alleged in the Complaint referenced in Paragraph 1.
17. 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, pursuant to Sections 309(a), (b), and (c) of the Act, 33 U.S.C. §§ 1319(a), (b), and (c), or Section 504 of the Act, 33 U.S.C. § 1364.
18. 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 or permits issued thereunder.
19. 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.

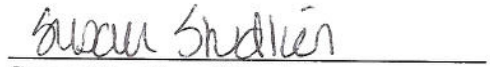
STIPULATED AND AGREED:

For RESPONDENT MT. TOM GENERATING COMPANY, LLC


Terry Munroe
Vice President
Mt. Tom Generating Company, LLC

Date: 01-05-11

For U.S. ENVIRONMENTAL PROTECTION AGENCY

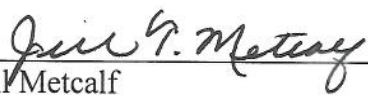

Susan Studlien, Director
Office of Environmental Stewardship
U.S. EPA, Region 1

Date: 01/11/11

FINAL ORDER

20. The forgoing Consent Agreement is hereby approved and incorporated by reference into this Order. The Respondent is ordered to comply with the terms of the Consent Agreement which will become final 30 days from the date it is signed by the Regional Judicial Officer.

U.S. ENVIRONMENTAL PROTECTION AGENCY



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

Date: January 18, 2011

In the Matter of: Mt. Tom Generating Company, LLC
Docket No. CWA 01-2010-0059

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:

Copy hand-delivered:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
Mail Code ORA17-1
Boston, Massachusetts 02109-3912

Copy by certified mail, return
receipt requested

James Ginnetti, Vice President
GDF Suez Energy Generation North America, Inc.
20 Church St. – 16th Floor
Hartford, CT 06103

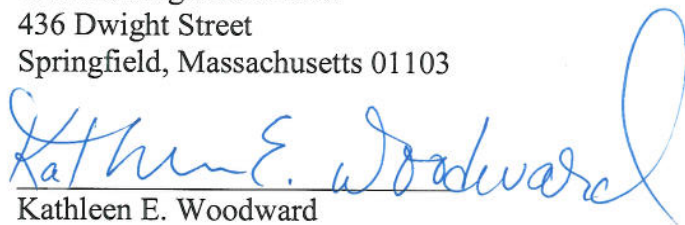
Capitol Corporate Services, Inc.
18 Tremont Street
Suite 146
Boston, MA 02108

Mark R. Sussman
Murtha Cullina LLP
185 Asylum Street
Hartford, CT 06103

Copy by first-class mail to:

Michael Gorski, Regional Director
Massachusetts Department of Environmental
Protection
Western Regional Office
436 Dwight Street
Springfield, Massachusetts 01103

Dated: January 31, 2011



Kathleen E. Woodward
Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. EPA, Region I
5 Post Office Square, Suite 100
Mail Code OES4-2
Boston, MA 02109-3912
(617) 918-1780