

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Maximilian Boal 3/4/14
Name of Case Attorney Date

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

Case Docket Number TSCA-01-2013-0018

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:

Woodstock Resort Corporation
14 The Green
Woodstock, VT 05091

Total Dollar Amount of Receivable \$ 6,341.00 Due Date: 4/3/14

SEP due? Yes No Date Due 9/1/14

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 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

March 4, 2014

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

BY HAND

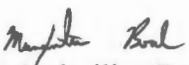
Re: *In re: Woodstock Resort Corporation*
Docket No. TSCA-01-2013-0018

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: John Paul Fagnant, Esq.

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OFFICE OF
REGIONAL HEARING CLERK

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
BEFORE THE ADMINISTRATOR**

In the Matter of:)
)
)

Woodstock Resort Corporation)
14 The Green)
Woodstock, VT 05091)

Respondent.)
)

Docket No. TSCA-01-2013-0018

CONSENT AGREEMENT AND FINAL ORDER

Complainant, the United States Environmental Protection Agency ("EPA"), and Respondent Woodstock Resort Corporation have agreed 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.

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding against Respondent pursuant to Section 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615, by filing an Administrative Complaint Docket No. TSCA-01-2013-0018 ("Complaint").

2. The Complaint alleges that Respondent violated Section 409 of TSCA, 15 U.S.C. § 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("the Act"), 42 U.S.C. § 4851 *et seq.*, and the federal regulations promulgated thereunder, entitled "Disclosure

Consent Agreement and Final Order
Docket No. TSCA-01-2013-0018

In re. Woodstock Resort Corporation
Page 1

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of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property,” as set forth at 40 C.F.R. Part 745, Subpart F (the “Disclosure Rule”).

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

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. 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.

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

II. TERMS OF SETTLEMENT

6. Respondent hereby certifies that it is currently operating and will operate its business in compliance with Section 409 of TSCA, 15 U.S.C. § 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851 *et seq.*, and 40 C.F.R. Part 745, Subpart F.

Penalty

7. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and taking into account the nature, circumstances, extent, and gravity of the violations, Respondent’s cooperative attitude, the economic impact of the penalty upon the Respondent, and such other matters as justice may require, EPA has determined that an appropriate civil penalty to settle this action is in the amount

of six thousand three hundred forty-one dollars (\$6,341.00) in addition to the performance of a Supplemental Environmental Project ("SEP").

8. Without admitting or denying the factual allegations contained in the Complaint, Respondent consents to the issuance of this CAFO and consents to the payment of a civil penalty of \$6,341.00, which shall be due within 30 calendar days of the effective date of this CAFO.

9. Respondent shall make payment by cashier's or certified check, or check issued in the normal course of business operations, payable to the order of the "Treasurer, United States of America," and referencing the EPA Docket Number of this action (TSCA-01-2013-0018), to the following address:

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

Respondent shall provide copies of the check to:

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

and

Maximilian Boal, Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912

Supplemental Environmental Project ("SEP")

10. Respondent shall complete a lead-based paint abatement Supplemental Environmental Project ("SEP" or "Project") consisting of renovation work (including window and door replacement) at target housing owned by Respondent that includes the removal of components containing lead-based paint and/or lead-based paint hazards, as further described in Attachment 1. The purpose of the SEP is to prevent pollution and to mitigate hazards associated with lead-based paint. The parties agree that this SEP is intended to secure significant environmental and public health protection benefits.

11. Respondent shall complete the SEP according to the requirements and schedule set forth in Attachment 1, which is incorporated herein by reference and is enforceable by this CAFO. The total expenditure for the SEP shall not be less than seven thousand three hundred fifty-nine dollars (\$7,359.00). Respondent shall complete the SEP by September 1, 2014.

12. **SEP Completion Report.** Respondent shall submit a SEP Completion Report within 30 days of completion of the SEP. The SEP Completion Report shall contain all of the information described in Attachment 1, including, but not limited to: (i) a detailed description of the SEP as implemented; (ii) a list of itemized costs for implementing the SEP; (iii) a certification by Respondent that the SEP has been fully implemented pursuant to the provisions of this CAFO in accordance with Attachment 1; and (iv) a description of the environmental and public health benefits resulting from implementation of the SEP.

13. Respondent agrees that failure to submit the report required by Paragraph 12 shall be deemed a violation of this CAFO, and Respondent shall become liable for stipulated penalties pursuant to Paragraph 16 below.

14. Respondent shall submit all notices, submissions, and reports required by this CAFO to Maximilian Boal by e-mail at boal.maximilian@epa.gov, to Molly Magoon by e-mail at magoon.molly@epa.gov, and by First Class mail or any other commercial delivery service to EPA at the addresses set forth below:

Maximilian Boal, Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912

and

Molly Magoon, Environmental Protection Specialist
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES05-4
Boston, MA 02109-3912

15. After receipt of the SEP Completion Report, EPA will notify Respondent in writing:

- a. That EPA concludes that the SEP has been completed satisfactorily;
- b. That EPA has determined that the project has not been completed

satisfactorily and is specifying a reasonable schedule for correction of the SEP or the SEP Completion Report; or

c. That EPA has determined that the SEP does not comply with the terms of this CAFO and is seeking stipulated penalties in accordance with Paragraph 16. If EPA notifies Respondent pursuant to subparagraph (b) above that the SEP itself or the SEP Completion Report does not comply with the requirements of this CAFO, Respondent shall make such corrections to the SEP and/or modify the SEP Completion Report in accordance with the schedule specified by EPA. If EPA notifies Respondent that the SEP itself does not comply with the requirements of this CAFO, Respondent shall pay stipulated penalties to EPA in accordance with Paragraph 16.

16. Stipulated Penalties.

a. In the event that Respondent fails to comply with any of the terms or provisions of this CAFO relating to performance of the SEP, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

i. Except as provided in subparagraph (ii) below, for a SEP which has not been completed satisfactorily pursuant to this CAFO, Respondent shall pay a stipulated penalty to the United States of \$9,198.75, plus interest from the effective date of the CAFO.

ii. If the SEP is not completed in accordance with this CAFO, but EPA determines that the Respondent: (a) made good faith and timely efforts to complete the project; and (b) certifies, with supporting documentation, that 100 percent of the amount of money which was required to be spent was expended on the SEP, Respondent shall not be liable for any stipulated penalty.

iii. In the event that Respondent completes the SEP in accordance with Attachment 1 but the total expenditure for the SEP is less than \$7,359.00, Respondent shall pay a stipulated penalty to the United States in the amount equal to the difference between \$7,359.00 and the actual amount spent on the Project, plus interest from the effective date of the CAFO.

iv. For failure to submit the SEP Completion Report, Respondent shall pay a stipulated penalty in the amount of \$100 for each day it is late until the Report is submitted.

b. The determinations of whether the SEP has been satisfactorily completed and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.

c. Stipulated penalties shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.

d. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions of Paragraph 9. Interest and late charges shall be paid as stated in Paragraph 20.

17. Respondent certifies that, as of the date of this CAFO, Respondent is not required to perform the SEP by any federal, state or local law or regulation, nor is Respondent required to perform the SEP under any grant or agreement with any governmental or private entity, as injunctive relief in this or any other case, or in compliance with state or local requirements.

Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

18. Respondent certifies that it is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. Respondent further certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.

19. Respondent agrees that any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of the Toxic Substances Control Act."

General Provisions

20. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. In the event that the civil penalty is not

paid when due, the penalty shall be payable, plus accrued interest, without demand. Interest shall be payable at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2) and shall accrue from the original date on which the penalty was due to the date of payment. In addition, a penalty charge of six (6) percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d).

21. All penalties, interest, and charges payable pursuant to this CAFO shall represent civil penalties assessed by EPA and shall not be deductible for purposes of federal taxes. Respondent also certifies that it has not and will not deduct any SEP costs in calculating federal and state income taxes. Additionally, Respondent certifies that it has not and will not use SEP costs to obtain state tax credits for lead-abatement work.

22. Respondent shall bear its own costs and attorneys' fees in connection with the action resolved by this CAFO. Each Party shall bear its own costs, disbursements and attorneys fees in connection with this enforcement action, and specifically waives any right to recover such costs, disbursements or fees from the other Party pursuant to the Equal Access to Justice Act, 5 U.S.C. Section 504, or other applicable law.

23. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, for the violations alleged in the Complaint, contingent on Respondent's full compliance with the terms of this CAFO. 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.


24. This CAFO in no way relieves Respondent or its employees of any criminal liability. Nothing in the CAFO shall be construed to limit the authority of the United States to undertake any action against Respondent in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment. Nothing in this CAFO 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 Respondent's violation of the statutes and regulations upon which this agreement is based, or for Respondent's violation of applicable provision of law.

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

26. This CAFO does not constitute a waiver, suspension, or modification of the requirements of TSCA, 15 U.S.C. § 2601 *et seq.*, or any regulations promulgated thereunder.

27. In accordance with 40 C.F.R. § 22.31(b), the effective date is the date on which this CAFO is filed with the Regional Hearing Clerk.

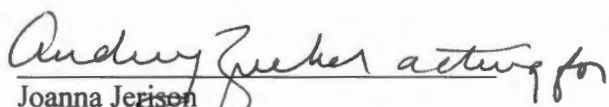
For Respondent:



John Wannop, ~~Manager~~ *Treasurer*
Woodstock Resort Corporation

2-18-14
Date

For Complainant:



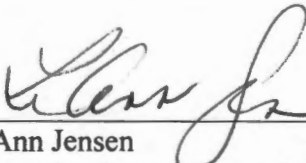
Joanna Jerison
Legal Enforcement Manager
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region I

2/27/14
Date

III. FINAL ORDER

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

Date: 2/28/14



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

Attachment 1

Supplemental Environmental Project Scope of Work

In re. Woodstock Resort Corporation
Docket Number TSCA-01-2013-0018

1. **Description of Project:** By September 1, 2014, Woodstock Resort Corporation (“Respondent”) shall spend \$7,359.00 performing a renovation project, including window and door replacement, at target housing owned by Respondent located at 38 Maple Street, Woodstock, VT 05091. The work shall be conducted in accordance with 40 C.F.R. Part 745, Subpart E, including, the “Renovation, Repair and Painting” Rule (“RRP Rule”) utilizing lead safe work practices. The project will remove components containing lead-based paint and/or lead-based paint hazards from target housing. The project will consist of: XRF testing for concentrations of lead in paint at 38 Maple Street and renovation work including replacing 7 old windows and 2 wood exterior doors with 6 double hung windows, 1 awning window, and 2 fiberglass exterior doors.
2. **Standard of Care:** The SEP shall be performed in accordance with EPA’s regulations on Residential Property Renovation set forth at 40 C.F.R. Part 745, Subpart E, including, the RRP Rule, and including but not limited to, all information distribution requirements under 40 C.F.R. § 745.84, work practice standards under 40 C.F.R. § 745.85, and record and reporting requirements under 40 C.F.R. § 745.86. The SEP shall also be performed in accordance with the United States Department of Housing and Urban Development Guidelines for Evaluation and Control and Lead-Based Paint Hazards in Housing (2012) and any applicable state law or regulation.
3. **Schedule:** Respondent shall complete the SEP on the following schedule:
 - a. Respondent shall complete the SEP by September 1, 2014.
 - b. Within 30 days of completing the SEP, Respondent shall submit a SEP Completion Report, containing the information specified below.
4. **SEP Completion Report:** The SEP Completion Report required by Paragraph 3(b) above and Paragraph 12 of the CAFO shall contain the following information:
 - a. Description of renovation work completed (including window and door replacement), including representative photographs showing before and after photographs of all SEP work performed;

- b. Copies of all inspection and clearance sampling reports, providing inspection and clearance sampling locations, inspection and clearance sampling results, and documentation of analytical quality assurance/quality control;
- c. Itemized costs of goods and services used to complete the window and door replacement work, documented by copies of invoices, purchase orders, or cancelled checks that specifically identify and itemize the individual costs of the goods and services;
- d. Itemized costs of services used to complete any lead inspections or clearance sampling, documented by copies of invoices or cancelled checks that specifically identify and itemize the costs of the services;
- e. Documentation that the renovator and firm who performed the SEP and clearance sampling are authorized to perform such work in accordance with EPA's RRP Rule, including copies of appropriate renovator and firm certifications;
- f. Completed EPA "Sample Renovation Recordkeeping Checklist" or a similar form;
- g. If unit(s) at 38 Maple Street are occupied, copies of the written acknowledgement(s) that the owner(s) or occupant(s) of 38 Maple Street, Woodstock, VT have received EPA's *Renovate Right* Pamphlet prior to the renovation;
- h. Certification that Respondent has completed the SEP in compliance with the CAFO;
- i. A statement that Respondent has not and will not seek rebates for the window purchases pursuant to any federal, state, or local agency's or utility's energy-efficiency program;

5. The completion of the SEP project discussed in this Scope of Work shall not relieve Respondent of its obligations to comply with all applicable provisions of federal, state, or local law.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

In the Matter of:)	
)	
Woodstock Resort Corporation)	Docket No. TSCA-01-2013-0018
)	
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 (Mail Code ORA 18-1)
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Copy, Certified Mail, Return
Return Receipt Requested

John Wannop, Manager
Woodstock Resort Corporation
14 The Green
Woodstock, VT 05091

John Paul Faignant
Miller Faignant & Robbason P.C.
P.O. Box 6688
1213 U.S. Route 7 North
Rutland, VT 05702-6688

Dated: 3-4-2014



Maximilian Boal
Enforcement Counsel (OES)
U.S. Environment Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: OES04-2
Boston, MA 02109-3912