

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Maximilian Boal  
Name of Case Attorney

12/21/11  
Date

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

Case Docket Number EPCRA-01-2011-0077

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:

Benevento Bituminous Products, LLC  
1 Roadstone Drive  
Kingston, NH 03845

Total Dollar Amount of Receivable \$ 9,500 Due Date: 1/20/11

SEP due? Yes  No  Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:

1<sup>ST</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
2<sup>nd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
5<sup>th</sup> \$ \_\_\_\_\_ 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

2011 DEC 21 P 4: 25

EPA ORC  
OFFICE OF  
REGIONAL HEARING CLERK

December 21, 2011

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 the Matter of Benevento Bituminous Products, LLC.  
EPCRA-01-2011-0077

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,

A handwritten signature in cursive script, appearing to read "Maximilian Boal".

Maximilian Boal  
Enforcement Counsel

Enclosure

cc: Anatoly Darov, Esq.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
BEFORE THE ADMINISTRATOR

RECEIVED  
2011 DEC 21 P 4: 25

EPA ORC  
OFFICE OF  
REGIONAL HEARING CLERK

In the Matter of: )

Benevento Bituminous Products, LLC )

1 Roadstone Drive )  
Kingston, NH 03845 )

Respondent )

Docket No. EPCRA-01-2011-0077

**CONSENT AGREEMENT AND FINAL ORDER**

Complainant, the United States Environmental Protection Agency ("EPA"), having filed the Complaint herein against Respondent, Benevento Bituminous Products, LLC, the Parties herein; and

Complainant and Respondent having agreed that settlement of this matter is in the public interest and that entry of this Consent Agreement and Final Order without further litigation is the most appropriate means of resolving this matter.

NOW, THEREFORE, before the taking of any testimony, upon the pleading, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby Ordered and Adjudged as follows:

**I. PRELIMINARY STATEMENT**

1. EPA initiated this proceeding for the assessment of a civil penalty of thirty-two thousand dollars (\$32,000), pursuant to Section 325 of the Emergency Planning and Community

Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045, and the regulations promulgated thereunder, found at 40 C.F.R. Part 370.

2. The Complaint alleges that Respondent violated regulations concerning the submission of chemical inventory forms (Tier II), for hazardous chemicals, including but not limited to diesel fuel and asphalt stored at Respondent's Facility in Kingston, New Hampshire in quantities equal to or greater than the chemical-specific minimum thresholds for these chemicals set forth at 40 C.F.R. § 370.10.

3. The provisions of this Consent Agreement and Final Order shall apply to and be binding on the Parties, their officers, directors, agents, servants, employees, 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 Consent Agreement and Final Order.

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 has demonstrated to the satisfaction of EPA that it has complied with the reporting requirements that formed the basis of Count I of the Complaint.



7. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and taking into account the nature of the violations, Respondent's cooperative attitude, and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of nine thousand five hundred dollars (\$9,500).

8. Without admitting or denying the facts and allegations contained in the Complaint, Respondent consents to the issuance of the Consent Agreement and Final Order hereinafter recited and consents for purposes of settlement to the payment of the civil penalty cited in the foregoing paragraph.

9. Within thirty (30) days of the effective date of the Final Order, Respondent shall submit a cashier's or certified check, to the order of the "Treasurer, United States of America," in the amount of nine thousand five hundred dollars (\$9,500), to:

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:

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

and

Maximilian Boal  
Enforcement Counsel (Mail Code OES04-2)  
U.S. Environmental Protection Agency, Region 1

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

10. Pursuant to 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 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).

11. All penalties, interest, and charges payable pursuant to this Consent Agreement and Final Order shall represent civil penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

12. Respondents shall bear its own costs and attorneys' fees in connection with the action resolved by this Consent Agreement and Final Order.

13. This Consent Agreement and Final Order constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 325 of EPCRA for the violations of EPCRA alleged in the Complaint. Compliance with this Consent Agreement and Final Order 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.

14. This Consent Agreement and Final Order in no way relieves Respondent or its employees of any criminal liability. Nothing in the Consent Agreement and Final Order 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.

15. 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 Consent Agreement and to execute and legally bind that party to it.

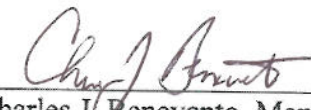
16. In accordance with 40 C.F.R. § 22.31(b), the effective date is the date on which this Consent Agreement and Final Order is filed with the Regional Hearing Clerk.

For Complainant:

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

Date: 12/21/11

For Respondent:

  
Charles J. Benevento, Manager  
Benevento Bituminous Products, LLC

Date: 12/16/11

**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: 12/21/11

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



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I

In the Matter of: )  
)

Benevento Bituminous Products, LLC )  
)

1 Roadstone Drive )  
Kingston, NH 03845 )

Respondent )  
)

Docket No. EPCRA-01-2011-0077

**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

Anatoly Darov, Esq.  
Burns & Levinson, LLP  
125 Summer Street  
Boston, MA 02110

Charles J. Benevento, Manager  
Benevento Bituminous Products, LLC  
900 Salem Street  
Wilmington, MA 01887

Dated: 12-21-2011



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