

**EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS**

This form was originated by Wanda I. Santiago for Rohemir Ramirez Balbago 9/1/16  
Name of Case Attorney Date

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

Case Docket Number CWA-01-2016-0040

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:

James Townsend  
Townsend Oil Co., Inc  
27 Cherry Street  
Danvers, MA 01923

Total Dollar Amount of Receivable \$ 30,000 Due Date: 2/27/17

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

Installment Method (if applicable)

**INSTALLMENTS OF:**

1<sup>st</sup> \$ 10,000 on 9/10/16

2<sup>nd</sup> \$ 10,178 on 11/29/16

3<sup>rd</sup> \$ 10,100 on 2/27/17

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

August 31, 2016

BY HAND

Wanda Santiago, Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 1 (ORA 18-1)  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

RECEIVED

AUG 31 2016

EPA ORC  
Office of Regional Hearing Clerk

Re: *In re Townsend Oil Co., Inc.*, Docket No. CWA-01-2016-0040

Dear Ms. Santiago:

Enclosed for filing are the following original documents, and one copy of each, relating to the above-referenced matter:

1. Consent Agreement and Final Order; and
2. Certificate of Service.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "R. Ramirez".

Rohemir Ramirez Ballagas  
Enforcement Counsel

Enclosures

cc: John W. Wadsworth, Esq. (Respondent's counsel)  
Joseph Canzano, OES, EPA Region 1



proposed issuance of such order. EPA has satisfied this requirement by providing public notice of, and reasonable opportunity to comment on, the proposed issuance of such order.

## **II. CONSENT AGREEMENT**

4. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint.

5. Respondent waives any defenses it may 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**

6. Respondent hereby waives its right to request a hearing under Section 311(b)(6)(B)(ii), 33 U.S.C. § 1321(b)(6)(B)(ii), and to any appeal of the Final Order in this matter under Section 311(b)(6)(G)(ii), 33 U.S.C. § 1321(b)(6)(G)(ii). Respondent consents to the issuance of the Final Order included with this Consent Agreement without further adjudication.

## **IV. PENALTY**

7. EPA proposes and Respondent consents to the assessment of a civil penalty in the amount of thirty thousand dollars (\$30,000.00).

## **V. PAYMENT TERMS**

8. In agreeing to the penalty described in paragraph 7 above, EPA has taken into account the statutory penalty factors at Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8).

9. Respondent shall pay a total penalty of \$30,000.00 in three (3) installments. The first payment shall be paid within ten (10) calendar days of the date this CAFO becomes final and shall consist of one payment of \$10,000.00. The second installment shall be in the amount of \$10,178.00 (*i.e.*, \$10,000.00 in principal, plus \$178.00 in interest) and shall be due within

ninety (90) days of the date this CAFO became final. The third and final installment, comprising of the remaining penalty, shall be in the amount of \$10,100.00 (*i.e.*, \$10,000.00 in principal, plus \$100.00 in interest) and shall be due within one hundred and eighty (180) days of the date this CAFO became final.

10. Respondent shall make each payment for the violations of Section 311(j) of the CWA by cashier's or certified check, or by wire transfer. Respondent shall include the case name and docket number (*In the matter of Townsend Oil Co., Inc.*, No. CWA-01-2016-0040) on the face of each check or wire transfer confirmation. Furthermore, it should also include "Oil Spill Liability Trust Fund – 311" on the face of the check or wire transfer confirmation. Each payment should be remitted as follows:

If remitted by regular U.S. mail:

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

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York using the following information:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

11. At the time of payment, Respondent shall simultaneously send notice of the payment and copy of the check to:

Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100 (Mail Code ORA 18-1)  
Boston, MA 02109-3912

and

Rohemir Ramirez Ballagas  
Enforcement Counsel  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100 (Mail Code: OES04-3)  
Boston, MA 02109-3912

12. If Respondent fails to make any of the payments required by Paragraph 9 by the required due dates, all remaining installments shall become immediately due and payable as of the missed payment date. Interest on such unpaid penalty amount shall accrue from the missed payment date until the total amount dues has been received by the United States. Respondent shall be liable for such amount regardless of whether EPA has notified Respondent of its failure to pay or made demand for payment. All payments to the United States under this paragraph shall be made as described in Paragraph 10.

13. Pursuant to Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H), a failure by the Respondent to pay the penalty assessed by this CAFO in full by its due date shall subject Respondent to a civil action to collect the assessed penalty, plus interest at the prevailing rates, from the date this Agreement becomes final. The rate of interest assessed shall be at the rate set forth in 31 C.F.R. § 901.9(b), 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 nonpenalty payment for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent of the aggregate amount of such person's penalties and nonpayment penalties that 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.

## VI. GENERAL PROVISIONS

14. The provisions of this CAFO shall apply to and be binding on Respondent, its officers, directors, agents, servants, employees, successors, and assigns.

15. The civil penalty provided under this CAFO, and any interest, nonpayment penalties, and charges described in this CAFO, shall represent penalties assessed by EPA within the meaning of 26 U.S.C. § 162(f) and 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 penalties 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.

16. This CAFO does not constitute a waiver, suspension, or modification of the requirements of the CWA or any regulations or permits promulgated thereunder. Payment of the penalty pursuant to this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the Complaint.

17. This CAFO in no way relieves Respondent or its employees of any criminal liability, and EPA reserves all its 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 present an imminent and substantial endangerment to the public health, welfare, or the environment.

18. 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 is based, or for Respondent's violation of any applicable provision of

law.

19. The Parties shall bear their own costs and fees in this action, including attorney's fees. Respondent specifically waives any right to recover such costs pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

20. 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.



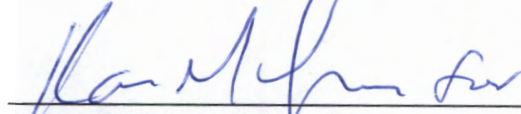
FOR TOWNSEND OIL COMPANY, INCORPORATED

Date: 8-26-16

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James Townsend  
Chief Executive Officer  
Townsend Oil Company, Incorporated

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY:



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

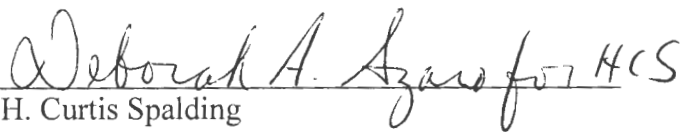
Date: 8-31-16

**FINAL ORDER**

21. The forgoing consent agreement is hereby approved and incorporated by reference into this Order.

22. The Respondent is hereby ordered to comply with the terms of the above Consent Agreement, which will become final 30 days from the date it is signed by the Regional Administrator unless a petition to set aside order is filed by a commenter pursuant to Section 311 (b)(6)(C)(iii) of the CWA. 33 U.S.C. §1321(b)(6)(C)(iii) and 40 C.F.R. Part 22.

Date: 8/31/16

  
\_\_\_\_\_  
H. Curtis Spalding  
Regional Administrator  
U.S. Environmental Protection Agency, Region 1