

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Christine Foot 1/19/11
Name of Case Attorney Date

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

Case Docket Number RCRA-01-2010-0052

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:

Southern Maine Specialties, Inc.
64 Industrial Park Road
Saco, ME 04072

Total Dollar Amount of Receivable \$ 38,250 Due Date: 2/18/11

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
FIVE POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

RECEIVED

JAN 14 2010

EPA ORC WS
Office of Regional Hearing Clerk
BY HAND

January 14, 2011

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

Re: In the Matter of: Southern Maine Specialties, Inc.
Docket No. RCRA-01-2010-0052

Dear Ms. Santiago,

Enclosed for filing, please find a Consent Agreement and Final Order (CAFO) settling the matter referenced above.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Christine M. Foot".

Christine Foot
Enforcement Counsel
EPA Region 1

Enclosures

cc: Kenneth F. Gray, Esq.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
NEW ENGLAND REGION
BEFORE THE ADMINISTRATOR

RECEIVED

JAN 14 2010

EPA ORC *WS*
Office of Regional Hearing Clerk

In the Matter of:)

SOUTHERN MAINE)
SPECIALTIES, INC.)
64 Industrial Park Road)
Saco, Maine 04072)

CONSENT AGREEMENT
AND FINAL ORDER

EPA ID No. ME5000001271)

EPA DOCKET NO.
RCRA-01-2010-0052

Proceeding under Section)
3008(a) of the Resource)
Conservation and Recovery)
Act, 42 U.S.C. § 6928(a))

CONSENT AGREEMENT AND FINAL ORDER

The United States Environmental Protection Agency (“EPA” or “Complainant”) filed a civil Administrative Complaint, Compliance Order, and Notice of Opportunity for Hearing (“Complaint”) on September 17, 2010 against Respondent, Southern Maine Specialties, Inc. (“SMS” or “Respondent”). The Complaint alleged violations at Respondent’s facility located in Saco, Maine (the “Facility”) under Section 3002 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6922; the regulations promulgated thereunder at 40 C.F.R. Parts 262 and 265; Chapter 13 of Title 38 of the Maine Revised Statutes; and the regulations promulgated thereunder, found at Chapter 800, *et seq.* of the State of Maine Hazardous Waste Management Rules (“the Maine Rules”).

Complainant and Respondent 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 settling this matter. Therefore, before taking any testimony, without any adjudication of issues of law or fact herein, and upon consent and agreement of the parties, it is hereby Ordered and Adjudged as follows:

I. PRELIMINARY STATEMENT

1. EPA is pursuing this proceeding for the assessment of a civil penalty pursuant to Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).
2. The Complainant alleged in the Complaint that Respondent: (a) failed to conduct hazardous waste determinations for certain wastes, in violation of Chapter 851, § 5 of the State of Maine Hazardous Waste Management Rules (“the Maine Rules”) and of 40 C.F.R. § 268.7(a); (b) failed to keep incompatible waste and materials separated from each other by means of a dike, berm, wall, or other device, in violation of Chapter 851, § 8C of the Maine Rules; (c) failed to provide adequate hazardous waste management training to all employees with hazardous waste management responsibilities at the Facility, in violation of Chapter 851, § 8B(5) of the Maine Rules, which incorporates by reference the requirements of 40 C.F.R. § 264.16; (d) accumulated hazardous waste at the point of generation in excess of the fifty-five gallon limit, in violation of Chapter 851, § 8C of the Maine Rules; and (e) failed to follow applicable tank management standards for hazardous waste tank #S24, in violation of the requirements of Chapter 851, § 8B of the Maine Rules.
3. As part of its Complaint, Complainant also Ordered (“RCRA Order”) Respondent to: (a) immediately determine whether all wastes at the Facility are hazardous at the time of their generation, in accordance with Chapter 851, § 5 of the Maine Rules and 40 C.F.R. § 268.7(a); (b) immediately segregate all incompatible wastes and materials, including those in the Tank Room

2 Satellite Accumulation Area, and implement management standards to ensure that all incompatible wastes and materials are kept separated from each other by means of a dike, berm, wall, or other device, in accordance with Chapter 851, § 8C of the Maine Rules; (c) within sixty (60) days, and annually thereafter, provide hazardous waste management training to all employees at the Facility with hazardous waste management responsibilities, in accordance with Chapter 851, § 8B(5) of the Maine Rules; (d) immediately label, date, inspect, and manage all hazardous waste identified at the Facility in accordance with federal and state standards, including: Chapter 851, §§ 8B(2), 8B(3), 8B(4), 8B(5), and 8C of the Maine Rules; and (e) within sixty-five (65) days submit to Complainant written confirmation of its compliance (accompanied by a copy of any appropriate supporting documentation) or noncompliance with the requirements set forth in the RCRA Order.

4. The provisions of this CAFO shall apply to and be binding upon EPA and Respondent, its officers, directors, successors, and assigns.

5. For purposes of this CAFO and any action to enforce this CAFO, without trial or litigation of the issues or adjudication of the facts, Respondent: (a) admits that EPA has jurisdiction over the subject matter alleged in the Complaint; (b) neither admits nor denies the factual allegations contained in the Complaint; and (c) consents to the terms of this CAFO.

6. Respondent hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint.

II. Terms of Settlement

7. Respondent has demonstrated to the satisfaction of EPA that it has complied with the terms of the RCRA Order. Respondent hereby certifies that the Facility is, as of the date of this

CAFO, in compliance with the requirements of RCRA, the federal regulations promulgated thereunder, and the Maine Rules, with respect to Respondent's management of hazardous waste.

8. Pursuant to Sections 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), based on the nature of the violations alleged in EPA's Complaint and other relevant factors, EPA has determined that an appropriate civil penalty to settle the five RCRA counts alleged in the Complaint, and listed in Paragraph 2 above, is in the amount of thirty-eight thousand, two hundred and fifty dollars (\$38,250).

9. Respondent consents to the issuance of this CAFO and consents for the purposes of settlement to the payment of the civil penalty cited in the forgoing paragraph.

10. Respondent shall pay the penalty of \$38,250 within thirty (30) days after the effective date of this CAFO. In accordance with 40 C.F.R. § 22.31(b), the effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

11. Respondent shall pay the penalty, and any interest thereon, by submitting a cashier's or certified check, payable to the order of the "Treasurer, United States of America," in the amount of thirty-eight thousand, two hundred and fifty dollars (\$38,250), to:

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

Respondent shall note the case name and docket number ("In the Matter of Southern Maine Specialties, Inc.," Docket No. RCRA-01-2010-0052) on the check and in an accompanying cover letter and shall provide copies of the check to:

Wanda I. 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

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

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 any partial payment of the civil penalty, plus interest thereon, is not paid when due without demand, the penalty plus accrued interest shall be payable with additional interest from the original due date to the date of payment, at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). In addition, a penalty charge of six percent per year will be assessed on any portion of the debt which remains delinquent more than 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).

12. All penalties, interest, and other charges payable pursuant to this CAFO shall represent penalties assessed by EPA and shall not be deducted for purposes of federal taxes.

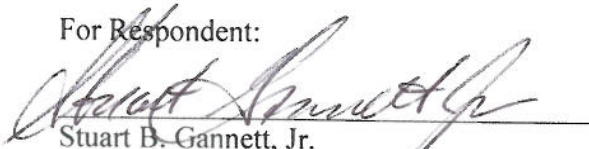
13. Payment of the penalties, interest, or other charges does not waive, suspend, or modify the responsibility of Respondent to comply with the requirements of all of the federal laws and regulations administered by EPA and, except as provided in paragraph 14 herein, shall not be a defense to any actions subsequently commenced pursuant to said laws and regulations.

14. This CAFO constitutes a settlement by EPA and a covenant not to sue or bring further administrative proceedings pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), with regard to all claims for civil penalties for the violations specifically alleged in the Complaint. Nothing in this CAFO is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent. 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.

15. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this CAFO.


16. 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.

For Respondent:


Stuart B. Gannett, Jr.
Southern Maine Specialties, Inc.
64 Industrial Park Road
Saco, ME 04072

1/06/2011
Date

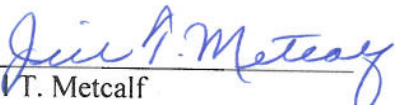
For EPA:


Joanna Jerison, Legal Enforcement Manager
U.S. Environmental Protection Agency, Region 1
5 Post Office Square Suite 100
Mail Code OES04-2
Boston, MA 02109-3912

1/13/11
Date

III. FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this 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.


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

Date: January 13, 2011


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

_____)	
In the Matter of:)	
SOUTHERN MAINE)	Docket No. RCRA-01-2010-0052
SPECIALTIES, INC.)	
64 Industrial Park Road)	CERTIFICATE OF SERVICE
Saco, Maine 04072)	
Respondent.)	
_____)	

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 I. Santiago Regional Hearing Clerk U.S. EPA, Region I 5 Post Office Square, Suite 100 Mail Code ORA18-1 Boston, MA 02109-3912
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Copy (Certified Mail, Return Receipt Requested):	Kenneth F. Gray, Esq. Pierce Atwood LLP One Monument Square Portland, ME 04101
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Dated: <u>1/14/11</u>	 Christine Foot, Enforcement Counsel Office of Environmental Stewardship U.S. Environmental Protection Agency, Region 1 5 Post Office Square, Suite 100 Mail Code OES04-2 Boston, MA 02109-3912
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