



## **I. PRELIMINARY STATEMENT**

1. EPA initiated this proceeding against Peter Galuszka (“Respondent”) pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), by filing an administrative Complaint (“Complaint”), Docket No. CWA-01-2008-0089, on September 4, 2008.
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.
3. Pursuant to Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), and in accordance with 40 C.F.R. § 22.38(b), 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 and opportunity to comment on the proposed penalty from September 8, 2008, through October 7, 2008.

## **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.

#### **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.

#### **Respondent's Certification of Compliance**

8. By its signature on this Consent Agreement, Respondent certifies that it has corrected the alleged violations cited in the Complaint.

#### **Penalty**

9. Complainant proposes, and Respondent consents to, the assessment of a civil penalty of TWO THOUSAND DOLLARS (\$2,000), due within 10 calendar days of the final date of this CAFO (as described in Paragraph 21 below).

#### **Payment Terms**

10. The parties have agreed to a settlement on the following terms. In agreeing to the penalty described in Paragraph nine, EPA has taken into account the statutory penalty factors described in Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), particularly Respondent's "ability to pay" the proposed penalty.
11. Respondent shall make payment by 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 Peter Galuszka CWA-01-2008-0089”), to:

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

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

Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region I  
One Congress Street, Suite 1100, RAA  
Boston, MA 02114-2023

and

Jeffrey Kopf, Senior Enforcement Counsel  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency, Region I  
One Congress Street, Suite 1100, SEL  
Boston, MA 02114-2023

#### **General Provisions**

13. 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 dates shall subject Respondent to a civil action to collect the assessed penalty, plus interest at current prevailing rates from the date 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.

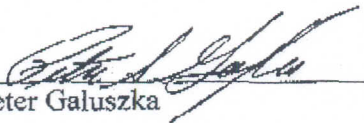
Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

14. The penalty specified in Paragraph nine above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.
15. Except as described in Paragraph 13 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 or administrative civil penalties pursuant to Sections 309(d) or (g) of the CWA, 33 U.S.C. §§ 1319(d) or (g), for all past violations of the CWA alleged in the Complaint referenced in Paragraph 1.
17. This Consent Agreement shall not constitute a waiver, suspension, or modification of the requirements of the Act of any regulation promulgated thereunder, shall not relieve Respondent of its obligation to comply with all applicable provisions of Federal, state, and local law, and shall not be a defense to any actions subsequently commenced pursuant to such laws.
18. This Consent Agreement shall not limit the authority of the United States to enforce the underlying 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.

19. 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, and legally bind that party to, this Consent Agreement.


STIPULATED AND AGREED:

For RESPONDENT

  
Peter Galuszka

Date: 9/2/09

For U.S. ENVIRONMENTAL PROTECTION AGENCY

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

Date: 09/03/09

**In the Matter of: Peter Galuszka,**  
**Docket No. CWA-01-2008-0089**

**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:

Original and one copy  
hand delivered:

Regional Hearing Clerk (RAA)  
U.S. EPA, Region I  
One Congress Street, Suite 1100  
Boston, MA 02114-2023

Copy, via Pouch Mail to:

The Honorable Barbara A. Gunning  
Administrative Law Judge  
Office of Administrative Law Judges  
Mail Code 1900L  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20005

Copy, via certified mail,  
return receipt requested

Richard H. Maynard, Esq.  
Law Offices of Maynard & Associates  
35 Bridge Street  
PO Box 162  
Belchertown, MA 01007

Date:

Sept 4, 2009

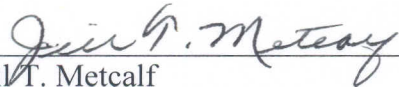


Jeffrey Kopf, Senior Enforcement Counsel  
Office of Environmental Stewardship (SEL)  
U.S. Environmental Protection Agency  
Region I  
One Congress Street, Suite 1100  
Boston, MA 02114-2023  
tel: (617) 918-1796  
fax: (617) 918-1809  
email: [kopf.jeff@epa.gov](mailto:kopf.jeff@epa.gov)

**FINAL ORDER**

20. In accordance with 40 C.F.R. § 22.18(b), the forgoing Consent Agreement is hereby approved and incorporated by reference into this Final Order.
21. Respondent is ordered to comply with the terms of the referenced Consent Agreement. This Order shall become final 30 days from today pursuant to Section 309(g)(5) of the CWA, 33 U.S.C. § 1319(g)(5).

U.S. ENVIRONMENTAL PROTECTION AGENCY

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

Date: September 3, 2009