EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for 10 nia Dandouicz 4/14/11 Name of Case Attorney Date
in the ORC (RAA) at 918-1113 Office & Mail Code Phone number
Case Docket Number MPRSA-DI -2010 -D078
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:
Burnham Associates Inc.
14 Franklyn St.
Salam, MA 01970
Total Dollar Amount of Receivable \$ 105.000 Due Date: 5/11/11
SEP due? Yes No Date Due
Installment Method (if applicable)
INSTALLMENTS OF:
1 ST \$ on
2 nd \$ on
3 rd \$ on
4 th \$ on
5 th \$ 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

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

BY HAND

April 12, 2011

Wanda Santiago Regional Hearing Clerk United States Environmental Protection Agency 5 Post Office Square - Suite 100 Boston, MA 02109-3912

Re:

In the Matter of Burnham Associates, Inc.

Docket No. MPRSA -01-2010-0078

Dear Ms. Santiago:

Enclosed please find a fully executed Consent Agreement and Final Order resolving the above-referenced case.

Thank you for your attention to this matter.

Sincerely,

Tonia Bandrowicz

Senior Enforcement Counsel

U.S. EPA

Enclosure

cc:

Susan L. Biro, Chief Administrative Law Judge

John D. Fitzpatrick, Esq.

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was transmitted to the following persons, in the manner specified, on the date below:

Original and one copy hand-delivered:

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

Copy by Overnight Mail

Susan L. Biro, Chief Administrative Law Judge U.S. EPA Office of Administrative Law Judges Franklin Court Building 1099 14th Street, NW, Suite 350 Washington, DC 20460

Copy by Overnight Mail

John D. Fitzpatrick, Esq. Pingitore & Fitzpatrick, LLC 929 Massachusetts Avenue, Suite 103 Cambridge, MA 02141.

Dated: 1211

Tonia Bandrowicz U.S. EPA - Region I 5 Post Office Square Boston, MA 0219-3912 Phone: (617) 918-1734 Fax: (617) 918-0734

bandrowicz.toni@epa.gov

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

IN THE MATTER OF:	
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BURNHAM ASSOCIATES, INC. 14 Franklin Street Salem, MA 01970,

Respondent.

Proceeding to Assess Civil Penalty Under Section 105(a) of the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. § 1415(a)

Docket No. MPRSA-01-2010-0078

CONSENT AGREEMENT AND FINAL ORDER

Introduction

- 1. Pursuant to Section 105(a) of the Marine Protection, Research and Sanctuaries Act ("MPRSA"), 33 U.S.C. § 1415(a), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation, Termination or Suspension of Permits" ("Consolidated Rules"), 40 C.F.R. Part 22, and applicable delegations of authority, the Regional Administrator of the United States Environmental Protection Agency, Region I ("EPA") issues, and Burnham Associates, Inc. ("Burnham" or "Respondent") agrees to, this Consent Agreement and Final Order ("CAFO").
- 2. EPA initiated this proceeding against Burnham by filing an Administrative Complaint, Docket No. MPRSA-01-2010-0078, under the authority of Section 105(a) of the MPRSA, and in accordance with the Consolidated Rules. On March 23, 2011, the Presiding Officer granted EPA's motion to amend the Administrative Complaint and, in addition, deemed the proposed amended complaint ("Amended Complaint") as being filed on that date.
- 3. The Amended Complaint alleges that Respondent violated Section 101(a) of MPRSA, 33 U.S.C. § 1411(a), by the actions of its subcontractor, Interport Towing and Transportation, in discharging dredged material in an area not authorized by a permit issued

penalty of \$ 105,000.00, and shall pay the penalty, as specified below, within thirty (30) calendar days of the effective date of this CAFO.

9. Respondent shall pay the penalty of \$ 105,000.00 by check, payable to "U.S. Environmental Protection Agency," and referencing the title and docket numbers of this action ("In the Matter of Burnham Associates, Inc. MPRSA 01-2010-0078"). The payment shall be mailed via U.S. Postal Service mail or by a commercial delivery service, to:

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

10. Respondent shall simultaneously submit a copy of the check referenced in the preceding paragraph to:

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

and to:

Tonia Bandrowicz
Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: OES 04-3
Boston, MA 02109-3912

11. Pursuant to Section 105(a) of the MPRSA, upon the failure of the respondent to pay the penalty, EPA may request the Attorney General to commence an action in the appropriate district court of the U.S. for such relief as may be appropriate.

Tonia Bandrowicz,
Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: OES 04-3
Boston, MA 02109-3912

18. 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 CAFO and to execute and legally bind that party to it.

THE UNDERSIGNED PARTY enters into this Consent Agreement and Final Order in the Matter of Burnham Associates, Inc., Docket No. MPRSA-01-2010-0078, on behalf of EPA

H. Curt Spalding, Regional Administrator
Office of Environmental Stewardship
U.S. EPA

THE UNDERSIGNED PARTY enters into this Consent Agreement and Final Order in the Matter Burnham Associates, Inc., Docket No. MPRSA-01-2009-0078, on behalf of Respondent

Date

17. Pursuant to 40 C.F.R. § 22.5(c)(4), the following individual is authorized to receive service on behalf of EPA:

Tonia Bandrowicz,
Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: OES 04-3
Boston, MA 02109-3912

18. 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 CAFO and to execute and legally bind that party to it.

THE UNDERSIGNED PARTY enters into this Consent Agreement and Final Order in the Matter of Burnham Associates, Inc., Docket No. MPRSA-01-2010-0078, on behalf of EPA

Date

H. Curt Spalding, Regional Administrator Office of Environmental Stewardship U.S. EPA

THE UNDERSIGNED PARTY enters into this Consent Agreement and Final Order in the Matter Burnham Associates, Inc., Docket No. MPRSA-01-2009-0078, on behalf of Respondent

Maril 1, 20,

Craig & Burnham as

President

Burnham Associates, Inc.