

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Rivera for Margery L. Adams 9/12/08  
Name of Case Attorney Date

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

Case Docket Number GWA-01-2008-0065

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:

Robert and Gayle Greenhill  
Tambegan Township, ME

Total Dollar Amount of Receivable \$ 115,000 Due Date: 10/10/08

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  
1 CONGRESS STREET, SUITE 1100  
BOSTON, MASSACHUSETTS 02114-2023

RECEIVED

2008 SEP 12 A 1:46

EPA ORG  
OFFICE OF  
REGIONAL HEARING CLERK

September 11, 2008

Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA  
One Congress Street  
Boston, MA 02114

Re: In the Matter of Robert and Gayle Greenhill  
Docket No. CWA 01-2008-0065

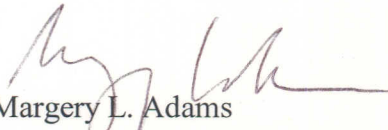
Dear Ms. Santiago:

Enclosed please find an original and one copy of the executed Consent Agreement and Final Order, settling the above-entitled action.

The Consent Agreement and Final Order has been signed by the Regional Judicial Officer, and will become effective in thirty days from the day of the Regional Judicial Officer's signature.

Copies have been sent to counsel for the Respondents. Please file the original documents in the administrative record.

Sincerely,

  
Margery L. Adams  
Counsel for Complainant

cc: Robert and Gayle Greenhill  
Virginia E. Davis, Esq., Preti, Flaherty  
Scott Rollins, LURC  
Michael Mullen, Maine DEP

Toll Free • 1-888-372-7341

Internet Address (URL) • <http://www.epa.gov/region1>

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

RECEIVED

REGION 1

2008 SEP 12 A 1:46

EPA ORC  
OFFICE OF  
REGIONAL HEARING CLERK

\_\_\_\_\_  
IN THE MATTER OF )

Robert and Gayle Greenhill )  
Tomhegan Township, Maine )

Proceeding Under Section 309(g) )  
of the Clean Water Act, )  
33 U.S.C. § 1319(g) )  
\_\_\_\_\_ )

DOCKET NO.:  
CWA 01-2008-0065

**CONSENT AGREEMENT  
AND FINAL ORDER**

**STATUTORY AND REGULATORY AUTHORITY**

1. This Consent Agreement and Final Order is issued under the authority granted to the U.S. Environmental Protection Agency ("EPA") by Section 309(g) of the Clean Water Act (the "Act"), 33 U.S.C. § 1319(g), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," at 40 C.F.R. Part 22 ("Part 22"). The parties agree to resolve this action by issuance of this Consent Agreement and Final Order ("CAFO"). EPA alleges that Respondents violated Section 301(a) of the Act, 33 U.S.C. § 1311(a), as further described below.

**DESCRIPTION OF VIOLATIONS**

2. The Complainant in this action, the Director of the Office of Environmental Stewardship, EPA Region 1, alleges that Respondents Robert Greenhill and Gayle

Greenhill violated Section 301(a) of the Act, 33 U.S.C. § 1311(a), by discharging or directing the discharge of dredged and/or fill materials into waters of the United States, specifically 1.5 acres of freshwater wetlands in Tomhegan Township, Maine, without first obtaining a permit from the Army Corps of Engineers under Section 404 of the Act, 33 U.S.C. § 1344, and without other authorization under the Act.

### CONSENT AGREEMENT

The parties, by their attorneys or other authorized representatives, hereby stipulate and agree:

3. On June 2, 2008, Complainant issued an Administrative Complaint, Docket No. CWA 01-2008-0065, (“the Complaint”) to Robert and Gayle Greenhill (“Respondents”) pursuant to Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), for the violations described in paragraph 2 above, and proposing a penalty in an amount up to \$157,500.

4. For the purpose of this proceeding and for the purpose of any action to enforce this Consent Agreement and Final Order, Respondents each admit the jurisdictional allegations of the Administrative Complaint, neither admit nor deny the specific factual allegations contained in the Administrative Complaint, and consent to the assessment of the administrative penalty set forth herein. Respondents further waive their right to a hearing under Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B) and to appeal any Final Order in this matter under Section 309(g)(8) of the Act, § 1319(g)(8). Respondents consent to issuance of this Final Order without further adjudication.

5. The provisions of this Consent Agreement and Final Order shall be binding upon EPA and upon Respondents, their agents, heirs, successors and assigns.

6. Respondents hereby consent to the issuance of this Consent Agreement and Final Order and agree, jointly and severally, to pay the civil penalty cited herein.

7. Pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g), based upon the nature of the violations and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of one hundred fifteen thousand dollars (\$115,000). In developing the settlement penalty in this Consent Agreement and Final Order, Complainant has considered the nature, circumstances, extent and gravity of the violations, the Respondents' prior compliance history, the degree of culpability, the economic benefit or savings accruing to the Respondents by virtue of the violations, Respondents' ability to pay the settlement penalty, and such other matters as justice may require.

8. Within thirty (30) days of the effective date of this Consent Agreement and Final Order, Respondents shall submit a cashier's or certified check payable to "Treasurer, United States of America" in the amount of one hundred fifteen thousand dollars (\$115,000). Such cashier's or certified check shall be submitted to:

United States Environmental Protection Agency  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

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

Wanda Santiago  
Acting Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region I

One Congress Street  
Boston, MA 02114-2023

and

Margery L. Adams  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency  
Region I  
One Congress Street (SEL)  
Boston, MA 02114-2023

9. The check shall bear the case name and docket number (CWA-01-2008-0065).

Interest and late charges shall be paid as specified in Paragraphs 11 and 12 herein.

10. The penalty specified in Paragraphs 7 and 8 above shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

11. 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. Interest will therefore begin to accrue on a civil penalty if it is not paid by the date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. §901.9(b)(2).

12. Pursuant to Section 309(g)(9), 33 U.S.C. § 1319(g)(9), a failure by the Respondents to pay the penalty assessed by this Consent Agreement and Final Order in full by its due date shall subject the Respondents to a civil action to collect the assessed penalty, plus interest at current prevailing rates from the date of this Consent Agreement and Final Order. Any person who fails to pay on a timely basis the amount of an assessed penalty, unless such failure results from causes beyond the reasonable control of Respondents, 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 twenty 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.

13. 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 Respondents' violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondents' violation of any applicable provision of law.

#### **ADDITIONAL PROVISIONS**

14. Issuance of this Consent Agreement and Final Order constitutes a final settlement by EPA of all claims for judicial and administrative civil penalties pursuant to Sections 309(d) and (g) of the Act, 33 U.S.C. §§ 1319(d) and (g), for all past violations of the Act specifically alleged in the Complaint. This Consent Agreement and Order is not intended to nor shall it be construed to operate in any way to resolve any criminal liability of the Respondents.

15. Issuance of this Consent Agreement and Final Order does not constitute a settlement by EPA of its right to enforce the substantive legal requirements underlying 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.

16. Neither assessment nor payment of an administrative civil penalty pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319, shall affect each Respondent's continuing obligation to comply with the Act, or with other applicable federal, state or local laws, regulations or requirements, including any separate compliance order issued under Section 309(a) of the Act, 33 U.S.C. § 1319(a), concerning the violations alleged herein. Full payment of the penalty required in this Consent Agreement and Final Order shall not affect the right of the United States to pursue appropriate injunctive or other relief for any violations of law not specified in the Complaint.

17. This Consent Agreement and Final Order is not a permit, and does not constitute a waiver, suspension or modification of the requirements of the Clean Water Act, 33 U.S.C. §§ 1251 et seq., or any regulations promulgated thereunder.

18. This Consent Agreement and Order shall not relieve Respondents of their obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

19. Each party shall bear its own costs and attorneys' fees in this proceeding.



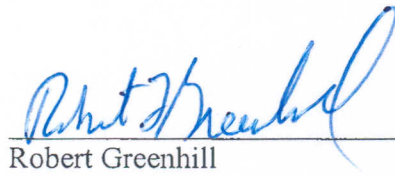
FOR U.S. EPA REGION 1

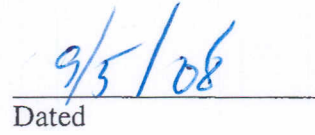
*Dan Silverman, acting for*

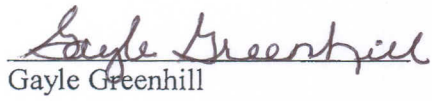
Susan Studien, Director  
Office of Environmental Stewardship  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
NEW ENGLAND  
One Congress Street, Suite 1100  
Boston, Massachusetts 02114

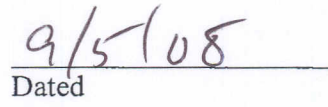
Dated: 9-9-08

FOR RESPONDENTS ROBERT AND GAYLE GREENHILL

  
Robert Greenhill

  
Dated

  
Gayle Greenhill

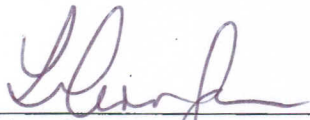
  
Dated

**FINAL ORDER**

Pursuant to Section 309(g)(2)(B) of the Act, 33 U.S.C. § 309(g)(2)(B), and in accordance with 40 C.F.R. Part 22, the forgoing Consent Agreement is hereby approved and incorporated by reference into this Final Order.

The Respondents are ordered to comply with the terms of the referenced Consent Agreement. This Consent Order shall become effective thirty (30) days after the date of issuance noted below unless a petition to set aside the Order is filed by a commenter pursuant to Section 309(g)(4)(C) of the Act, 33 U.S.C. §§ 1319(g)(4)(C), and 40 C.F.R. Part 22. If the petition is denied, this Consent Agreement and Final Order shall become effective thirty (30) days after such denial. If the petition is granted, the Consent Order will be set aside and a hearing in accordance with Section 309(g)(2)(B) of the Act shall be held.

U.S. ENVIRONMENTAL PROTECTION AGENCY



\_\_\_\_\_  
LeAnn Jensen  
Acting Regional Judicial Officer  
U.S. EPA, Region I  
One Congress Street, Suite 1100  
Boston, Massachusetts 02114

9/10/08  
Date

CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent by first class mail a copy of this "Consent Agreement and Final Order" to counsel for Respondents:

Virginia Davis, Esq.  
Carlisle J. Tuggey, Esq.  
Preti, Flaherty, Belliveau and Pachios  
45 Memorial Circle  
Augusta, ME 04330

I further certify that on the same date below, I sent by first class mail a copy of the aforementioned Consent Agreement and Final Order to the following persons at the addresses listed below:

Michael Mullen  
Maine Department of Environmental Protection  
28 Tyson Drive  
Augusta, ME 04333-0017

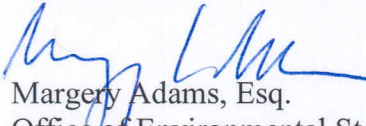
Scott Rollins  
Land Use Regulation Commission  
18 Elkins Lane - Harlow Building  
22 State House Station  
Augusta, Maine 04333-0022

I further certify that on the same date below, I hand delivered the original and one copy of the aforementioned Administrative Complaint to the following person at the address listed below:

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

Date

9/4/08

  
Margery Adams, Esq.  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency  
One Congress Street  
Suite 1100 (SEL)  
Boston, MA 02114