

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Tonia Bandrowicz 12/15/15
Name of Case Attorney Date

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

Case Docket Number CWA-01-2016-0006

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:

Donna Nashawaty
Town of Sunapee, NH
22 Edgemont Road
Sunapee, NH 03782

Total Dollar Amount of Receivable \$ 15,000 Due Date: 1/10/16

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

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

BY HAND

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DEC 14 2015

EPA ORC WS
Office of Regional Hearing Clerk

December 14, 2015

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

Re: Notice of CWA Consent Agreement and Final Order
In the Matter of Town of Sunapee, NH
Docket No. CWA 01-2016-0006

Dear Ms. Santiago:

In accordance with 40 C.F.R. § 22.18(b)(2), 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,

A handwritten signature in blue ink that reads "Tonia Bandrowicz".

Tonia Bandrowicz
Senior Enforcement Counsel
U.S. EPA

Enclosure

cc: Donna Nashawaty, Town Manager

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

IN THE MATTER OF)	
)	Docket No. CWA 01-2016-0006
SUNAPEE, TOWN OF)	
22 Edgemont Road)	CONSENT AGREEMENT AND
Sunapee, New Hampshire 03782)	FINAL ORDER
)	
Respondent.)	

This Consent Agreement and Final Order (“CAFO”) is proposed and entered into under the authority vested in the U.S. Environmental Protection Agency (“EPA”) by Section 309(g)(2)(B) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g)(2)(B), and under the authority provided by the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation, Termination or Suspension of Permits*, set forth at 40 C.F.R. Part 22 (“Part 22”).

STIPULATIONS AND FINDINGS

1. EPA initiated this proceeding against the Town of Sunapee, New Hampshire (“Respondent”) pursuant to Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), by filing an Administrative Complaint, Docket No. CWA-01-2014-0086 (“Complaint”).
2. The Complaint alleges that Respondent’s violations of Section 301(a) of the CWA, 33 U.S.C. § 1319(a), subjects it to penalties up to the statutory maximum authorized under the CWA.

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Office of Regional Hearing Clerk

3. The factual and jurisdictional basis for proposing the assessment of civil penalties is set forth in the Complaint and incorporated herein by reference.

4. Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and 40 C.F.R. § 22.45(b), provide 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 posting a public notice of the action on its website and providing a public comment period from November 5, 2015 through December 4, 2015. EPA received no public comments regarding this matter.

5. In accordance with 40 C.F.R. § 22.18(b)(2), for purposes of this proceeding, Respondent admits the jurisdictional allegations contained in the Complaint; neither admits nor denies the specific factual allegations contained in the Complaint; consents to the assessment of civil penalty and all other conditions specified in this CAFO; and waives its right to contest the allegations in the Complaint and its right to appeal the proposed Final Order accompanying this Consent Agreement.

6. Respondent certifies that it is currently operating and will continue to operate the facility described in the Complaint in compliance with its National Pollutant Discharge Elimination System (“NPDES”) Permit and the CWA.

CONSENT AGREEMENT

7. Based on the forgoing Stipulations and Findings, and taking into account the statutory penalty factors at Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), and under the authority of Section 309(g), 33 U.S.C. § 1319(g), EPA hereby orders and Respondent hereby consents as follows:

8. The Respondent shall pay a penalty of \$ 15,000 for the violations of the CWA specifically alleged in the Complaint and continuing through the date of this CAFO.

9. Within 30 calendar days of the date of the Final Order below, Respondent shall make payment of the amount specified in the preceding paragraph by a check payable to “Environmental Protection Agency,” and referencing the title and docket number of this action (“In the Matter of Town of Sunapee, New Hampshire, CWA-01-2016-0006”). The payment shall be mailed to:

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

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

Regional Hearing Clerk, RCA
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912

and

Tonia Bandrowicz
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (OES04-3)
Boston, MA 02109-3912

General Provisions

11. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), failure by the Respondent to pay the penalty amount assessed by Paragraph 8 of this CAFO (“Respondent’s Penalty Amount”) in full by the date required shall subject the Respondent to a civil action to

collect the assessed penalty, plus interest at the prevailing rates from the effective date of the CAFO. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Further, under Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), if Respondent fails to pay on a timely basis Respondent's Penalty Amount, Respondent shall be required to pay, in addition to such amount and interest, attorneys fees and 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 (20%) of the aggregate amount of Respondent's Penalty Amount and nonpayment penalty which is unpaid as of the beginning of such quarter. Interest will be assessed pursuant to 31 C.F.R. § 901.9(b), promulgated pursuant to 31 U.S.C. § 3717.

12. The penalty provided for herein is a penalty within the meaning of 26 U.S.C. § 162(f) and is not tax deductible for purposes of federal, state, or local law.

13. The provisions of this CAFO shall be binding upon Respondent and Respondent's officers, directors, and successors or assigns.

14. Except as described in Paragraph 11 above, each party shall bear its own costs and attorney's fees in this proceeding.

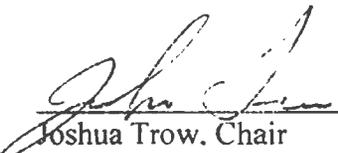
15. This CAFO shall not limit the authority of the United States to enforce the underlying substantive legal requirements of this administrative penalty assessment, whether administratively or judicially.

16. This CAFO does not constitute a waiver, suspension or modification of the requirements of the CWA, 33 U.S.C. §§ 1251 *et seq.*, or any regulations promulgated thereunder.

17. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 309(g) of the CWA, 33 U.S.C. 1319(g), for the violations of the CWA specifically alleged in the Complaint through the date of this CAFO. Compliance with this CAFO shall not be a defense to any action subsequently commenced pursuant to other federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations. This CAFO in no way relieves Respondent or its employees of any criminal liability. Nothing in this CAFO shall be construed to limit the authority of the United States to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public.

18. The undersigned representative of Respondent certifies that he or she is fully authorized by Respondent to enter into the terms and conditions of this CAFO and legally bind Respondent.

FOR RESPONDENT



Joshua Trow, Chair
Town of Sunapee
Board of Selectmen

Date: 11/30/15

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY



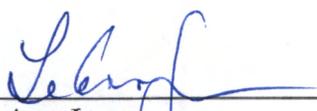
Susan Studlien, Director
Office of Environmental Stewardship
U.S. EPA, Region 1

Date: 12/10/2015

FINAL ORDER

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. Respondent is ordered to comply with the terms of the referenced Consent Agreement. This Final Order shall become final 30 days from the date it is signed by the Regional Judicial Officer.

U.S. ENVIRONMENTAL PROTECTION AGENCY



LeAnn Jensen
Acting Regional Judicial Officer
U.S. EPA, Region 1

Date: 12/10/15

**In the Matter of Town of Sunapee, NH
EPA Docket No. CWA-01-2016-0006**

CERTIFICATE OF SERVICE

I certify that the foregoing fully executed 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 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

Copy by certified mail,
return receipt requested:

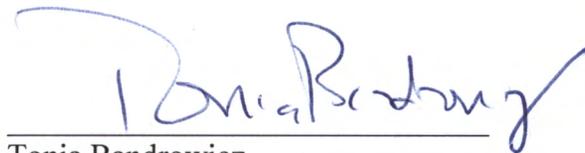
David Baily, Superintendent
Town of Sunapee
23 Edgemont Road
Sunapee, NH 03782-0717

Donna Nashawaty, Town Manager
Town of Sunapee
23 Edgemont Road
Sunapee, NH 03782-0717

Copy by certified mail,
Return receipt requested:

Gretchen Hamel
NH Department of Environmental Services
29 Hazen Drive
Concord, NH 03301

Dated: 12/14/15



Tonia Bandrowicz
Senior Enforcement Counsel
U.S. Environmental Protection Agency
5 Post Office Square, Suite 100
Mail Code OES 04-3
Boston, MA 02109
617-918-1734
617-918-0734 (Fax)
bandrowicz.toni@epa.gov



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

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Regional Hearing Clerk
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5 Post Office Square - Suite 100
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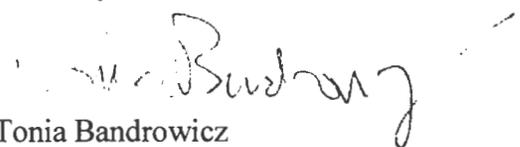
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Tonia Bandrowicz
Senior Enforcement Counsel
U.S. EPA

Enclosure

cc: Donna Nashawaty, Town Manager