

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
ONE CONGRESS STREET, SUITE 1100
BOSTON, MA 02114-2023

Reply to: (617) 918-1869
Fax: (617) 918-1809
Mail Code: SEL

BY HAND

November 25, 2008

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

Re: TLT Construction Corporation
EPA Docket No. CWA-01-2008-0070

Dear Ms. Rivera:

Enclosed are the original and one copy of the following documents for filing with respect to the above-captioned matter: Consent Agreement and Final Order, and Certificate of Service.

Kindly file the documents in the usual manner. Thanks very much for your help.

Very truly yours,



Amelia Welt Katzen
Senior Enforcement Counsel

Enclosures

cc: Robert Fitzgerald, Esquire
Jill T. Metcalf, Regional Judicial Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

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

CERTIFIED MAIL—RETURN RECEIPT REQUESTED

November 25, 2008

Robert H. Fitzgerald, Esquire
Goodwin Procter LLP
Exchange Place
Boston, MA 02109

Re: In re. TLT Construction Corporation
EPA Docket No. CWA-01-2008-0070

Dear Mr. Fitzgerald:

I am enclosing a fully executed copy of the Consent Agreement and Final Order (CAFO) that will resolve the above referenced administration action.

The penalty of \$135,000 is due within 10 days after the effective date of the CAFO. The effective date is thirty days following the date on which the Final Order is signed by the Regional Judicial Officer. Payment of the penalty should be made in accordance with the instructions set forth in the Consent Agreement.

Thank you for your cooperation in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Amelia Welt Katzen".

Amelia Welt Katzen
Senior Enforcement Counsel

Enclosure

cc (w/enc): Joseph Canzano (SEW)

Toll Free • 1-888-372-7341

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

In the Matter of)

TLT CONSTRUCTION CORPORATION)
One Pope Street)
Wakefield, Massachusetts)

Respondent)
_____)

Docket No. CWA-01-2008-0070

CONSENT AGREEMENT
AND FINAL ORDER

RECEIVED
MAY 25 9 01
EPA DRC
OFFICE OF COMPLIANCE

STATUTORY AUTHORITY

This Consent Agreement and Final Order ("CAFO") is issued under the authority granted to the U.S. Environmental Protection Agency ("EPA") by Section 309(g)(2)(B) of the Clean Water Act (the "Act"), 33 U.S.C. § 1319(g)(2)(B), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," at 40 C.F.R. Part 22.

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding against the TLT Construction Corporation ("Respondent") pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), by filing an administrative Complaint ("Complaint"), Docket No. CWA-01-2008-0070, on June 12, 2008. On November 10, 2008, EPA filed an Amended Administrative Complaint ("Amended Complaint"), adding four additional construction sites to two of the violations alleged in the original Complaint.
2. The complete factual and jurisdictional basis for proposing the assessment of an administrative penalty is set forth in the Amended 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. For the purpose of this proceeding, Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Amended Complaint.

6. Respondent waives any defenses it might have in this proceeding as to jurisdiction and venue, and, without admitting or denying the facts and violations alleged in the Amended Complaint, consents to the terms of this CAFO.

7. Respondent hereby waives its right to request a judicial or administrative hearing on any issue of law or fact set forth in the Amended Complaint, and consents to the issuance of the Final Order included with this Consent Agreement without further adjudication.

8. Complainant proposes and Respondent consents to assessment of an administrative penalty of one hundred thirty-five thousand dollars (\$135,000) in settlement of those past violations of the Act alleged in the Amended Complaint.

9. Within ten (10) days of the effective date of this CAFO, Respondent shall submit a cashier's or certified check payable to "Treasurer, United States of America" and referencing the title and docket number of the action, in the amount specified in the preceding paragraph to:

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

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

Wanda Rivera (RAA)
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region I
One Congress Street
Boston, MA 02114-2023

and

Amelia Welt Katzen, Senior Enforcement Counsel
Office of Environmental Stewardship (SEL)
U.S. Environmental Protection Agency
Region 1
One Congress Street
Boston, MA 02114-2023

10. Pursuant to Section 309(g)(9), 33 U.S.C. § 1319(g)(9), a failure by the Respondent to pay the administrative penalty assessed by this CAFO in full by its due date shall subject the 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 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 administrative penalty shall not be subject to review.

11. The penalty specified in Paragraph 8 above, shall represent administrative penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

12. The provisions of this CAFO shall be binding upon EPA and Respondent, its officers, directors, agents, servants, employees, and successors or assigns.

13. Each party shall bear its own costs and fees in this proceeding.

14. Issuance of this CAFO constitutes a settlement by EPA of all claims for judicial or administrative civil penalties pursuant to Sections 309(d) or (g) of the Act, 33 U.S.C. §§1319(d) or (g), for the past violations of the Act alleged in the Amended Complaint.

15. This Consent Agreement shall not constitute a waiver, suspension, or modification of the requirements of the Act or any regulation promulgated thereunder, shall not relieve Respondent of its obligation to comply with all applicable provisions of Federal, state, and local law, and, except with respect to the past violations of the Act alleged in the Amended Complaint, shall not be a defense to any actions subsequently commenced pursuant to such laws.

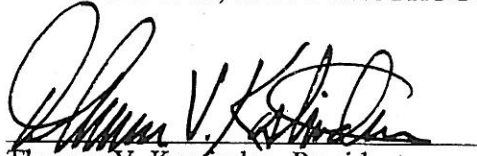
16. This Consent Agreement shall not limit the authority of the United States to enforce the underlying legal requirements of this administrative penalty assessment, whether administratively or judicially, pursuant to Sections 309(a), (b), and (c) of the Act, 33 U.S.C. §§ 1319(a), (b), and (c), or Section 504 of the Act, 33 U.S.C. § 1364.

17. 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.

STIPULATED AND AGREED.

RESPONDENT, TLT CONSTRUCTION CORPORATION



Thomas V. Kostinden, President
TLT Construction Corporation

11/14/08
Date

U.S. ENVIRONMENTAL PROTECTION AGENCY



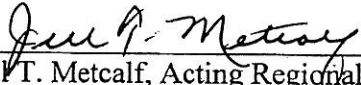
Susan Studlién, Director
Office of Environmental Stewardship
U.S. EPA, Region 1

11/20/08
Date


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 effective 30 days from today pursuant to Section 309(g)(5) of the CWA, 33 U.S.C. § 1319(g)(5).



Jill T. Metcalf, Acting Regional Judicial Officer
U.S. Environmental Protection Agency, Region 1



Date

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

_____))	
In the Matter of:)	EPA Docket No.
)	CWA-01-2008-0070
TLT CONSTRUCTION CORPORATION,)	
)	
)	
RESPONDENT)	
_____))	

CERTIFICATE OF SERVICE

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:

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

Copy, by Certified Mail,
Return Receipt Requested:

Robert H. Fitzgerald, Esquire
Goodwin Procter LLP
Exchange Place
Boston, MA 02109

Copy, hand delivered:

Jill T. Metcalf
Regional Judicial Officer (RAA)
U.S. EPA, Region I
One Congress Street, Suite 1100
Boston, MA 02114-2023

Dated: 11/25/08



Amelia Welt Katzen
Senior Enforcement Counsel (SEL)
U.S. Environmental Protection Agency, Region 1
One Congress Street, Suite 1100
Boston, MA 02114-2023
Tel (617) 918-1869