

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for JAHANI A. Rivers
Name of Case Attorney

6/29/17
Date

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

Case Docket Number CAA-01-2017-0033

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:

Veolia Water North America-Northeast, LLC
53 State St. 14th FLOOR
Boston, MA 02109

Total Dollar Amount of Receivable \$ 35,00.00 Due Date: 7/29/17

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

June 29, 2017

RECEIVED

JUN 29 2017

EPA ORC
Office of Regional Hearing Clerk

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

Re: In the Matter of: City of Cranston and Veolia Water North America – Northeast, LLC
Docket No. CAA-01-2017-0033

Dear Ms. Santiago:

Please accept for filing the attached original and one copy of a Consent Agreement and Final Order (CAFO) settling the above-captioned Clean Air Act case against the City of Cranston and Veolia Water North America – Northeast, LLC at the City of Cranston's sewage sludge incinerators in Cranston, Rhode Island. The CAFO has been executed by the parties and was signed by the Acting Regional Judicial Officer on June 28, 2017.

Please note that this enforcement action has no accompanying administrative complaint. Instead, pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2), this CAFO simultaneously commences and settles the action.

If you have any questions regarding the CAFO, please call me at (617) 918-1299. Thank you for your assistance with this matter.

Sincerely,

Tahani Ann Rivers

Tahani Ann Rivers
Enforcement Counsel
EPA Region 1

cc: Daniel J. Mahoney
Counsel for the City of Cranston and Veolia Water North America – Northeast, LLC

Enclosures:

1. Original CAFO and copy of CAFO
2. Certificate of Service and copy

In the Matter of: City of Cranston and Veolia Water North America – Northeast, LLC, Docket No. CAA-01-2017-0033

CERTIFICATE OF SERVICE

I certify that I hand-delivered to the office of the Regional Hearing Clerk of EPA Region 1 the original and one copy of the final Consent Agreement and Final Order (CAFO) in the above-captioned case, together with a cover letter, and arranged to send a copy of the CAFO and letter via mail to Respondents at the addresses set forth below:

HAND-DELIVERY: (original and one copy)

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

VIA FIRST CLASS MAIL:

Cranston City Hall
ATTN: Kenneth Mason, P.E., Department of Public Works Director
869 Park Avenue
Cranston, Rhode Island 02910

Daniel J. Mahoney
Veolia North America
53 State Street, 14th Floor
Boston, MA 02109

Dated: 0129/17

Tahani Ann Rivers

Tahani Ann Rivers
Enforcement Counsel
United States Environmental Protection Agency
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3812
(617) 918-1299
Rivers.Tahani@epa.gov

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)
)
City of Cranston)
Cranston City Hall)
869 Park Avenue)
Cranston, Rhode Island 02910)
Respondent)
)
Veolia Water North America – Northeast, LLC)
53 State St. 14th Floor)
Boston, MA 02109)
Respondent)
)

Docket No. CAA-01-2017-0033

RECEIVED

JUN 29 2017

EPA ORC
Office of Regional Hearing Clerk

CONSENT AGREEMENT AND FINAL ORDER

The Complainant, United States Environmental Protection Agency, Region 1 (“EPA”), alleges that the City of Cranston, Rhode Island (“Cranston”) and Veolia Water North America – Northeast, LLC (“Veolia”) (“Respondents”) violated requirements for sewage sludge incinerators, found at 40 C.F.R. Part 62, Subpart LLL, at the City of Cranston Water Pollution Control Facility located at 140 Pettaconsett Avenue in Cranston, Rhode Island. These standards are promulgated pursuant to the Clean Air Act (“CAA”, or “the Act”).

EPA and Respondents agree to settlement of this matter through this Consent Agreement and Final Order (“CAFO”) without the filing of an administrative complaint, as authorized under 40 C.F.R. § 22.13(b).

EPA and Respondents agree that settlement of this matter is in the public interest, and that entry of this CAFO without further litigation is the most appropriate means of resolving this matter.

Therefore, before taking any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

A. PRELIMINARY STATEMENT

1. The provisions of this CAFO shall apply to and be binding upon EPA and upon Respondents and its officers, directors, trustees, successors, and assigns. The “Effective Date” of this CAFO shall be defined as the date that this CAFO is filed with the Regional Hearing Clerk, as described in the Final Order attached to this Consent Agreement.

2. Respondents stipulate that EPA has jurisdiction over the subject matter alleged in this CAFO. Respondents waive any defenses they might have as to jurisdiction and venue. Respondents consent to the terms of this CAFO.

3. Respondents neither admit nor deny the general or specific factual and legal allegations contained below in Section B. For purposes of this CAFO and any action necessary to enforce it, Respondents hereby waive their right to request a judicial or administrative hearing or otherwise to contest the allegations in this CAFO. Respondents waive any right to appeal this CAFO.

4. By signing this CAFO, Respondents certify that they are presently operating in compliance with 40 CFR Part 62, Subpart LLL (“Subpart LLL”) and that they have fully addressed the violations alleged herein.

Statutory and Regulatory Authorities

5. Under the authority of Section 111(d) and Section 129(b)(3) of the CAA, 42 U.S.C. §§ 7411(d) and 7429(b)(3), EPA has established a federal plan for the control of emissions from existing sewage sludge incinerators (“SSIs”) in states that have not submitted an

approvable state plan under 42 U.S.C. §§ 7411(d), and 7429(b)(2). The federal plan is found at 40 CFR 62 Subpart LLL. *See*, 81 Fed. Reg. 26039, dated April 29, 2016.

6. The State of Rhode Island has not submitted an approvable state plan for the control of emissions from SSIs as allowed under 42 U.S.C. §§ 7411(d), 7429(b)(2). Therefore, the federal plan was effective on May 31, 2016 for SSIs in the State of Rhode Island.

7. Regulations promulgated under CAA Sections 111(d) and 129(b)(3) are enforceable by EPA in accordance with Section 113 of the Act, 42 U.S.C. § 7413.

8. Section 113(d) of the Act, 42 U.S.C. § 7413(d), authorizes EPA to issue an administrative penalty order for violations of Subpart LLL.

9. Under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Civil Penalties Inflation Adjustment Act of 1990, as amended through 2017 (see 82 Fed Reg. 3633, and 40 C.F.R. Part 19), EPA may assess penalties of up to \$44,539 for each day of each violation occurring after November 2, 2015 and assessed on or after August 1, 2016 but before January 15, 2017, and \$45,268 for violations that occurred after November 2, 2015 and assessed on or after January 15, 2017. Section 113(d) of the Act limits EPA's authority to issue administrative complaints to matters where the total penalty sought does not exceed \$200,000 (\$362,141 as adjusted for inflation) and the first alleged date of violation occurred no more than twelve months prior to the initiation of the action, unless the EPA Administrator and the Attorney General for the U.S. Department of Justice ("DOJ") jointly determine that a matter involving a larger penalty or longer period of violation is appropriate for the administrative action. Pursuant to the Civil Penalties Inflation Adjustment Act of 1990, as amended through 2017 (see 82 Fed. Reg. 3633 and 40 C.F.R. Part 19), the above-described penalty cap has been raised to \$362,141.

B. EPA FINDINGS

10. Cranston owns, and Veolia operates, two multi-hearth SSIs located at 140 Pettaconsett Avenue in Cranston, Rhode Island (“the Facility”) that are subject to Subpart LLL.

11. On May 24, 2016, EPA conducted an on-site inspection of the Facility.

12. On July 25, 2016, EPA issued Respondents a Notice of Violation (“NOV”). The NOV describes EPA’s findings that Respondents had violated, and were still in violation of, certain CAA requirements relating to Subpart LLL.

13. In accordance with 40 C.F.R. § 62.15875, owners and operators of subject SSIs must submit a final control plan and achieve final compliance by March 21, 2016.

14. On August 19, 2016, Respondents submitted a Control Plan for MHI-14 & MHI-18 For Water Pollution Control Facility, Cranston, Rhode Island. Respondents submitted a revised version of this Plan on November 9, 2016, which EPA approved on November 23, 2016. Respondents’ submission was untimely, in violation of 40 C.F.R. § 62.15875.

15. Pursuant to 40 C.F.R. § 62.15895, owners and operators of subject SSIs must submit monthly status reports from March 31, 2016, until a final control plan is submitted and final compliance is met.

16. From March 31, 2016 until November 1, 2016, Respondents failed to submit monthly status reports, in violation of 40 C.F.R. § 62.15895.

17. In accordance with 40 C.F.R. §§ 62.15995 and 62.16030(b)(9), owners and operators of subject SSIs must submit a site-specific monitoring plan (SSMP) at least 60 days before March 21, 2016.

18. Respondents submitted various versions of a SSMP to EPA between January 27, 2016 and August 19, 2016, on which EPA provided comments. On November 23, 2016, EPA

approved the SSMP (Revision 4, dated August 19, 2016). Respondents' submission was untimely, in violation of 40 C.F.R. §§ 62.15995 and 62.16030(b)(9).

19. According to 40 C.F.R. § 62.16030, owners and operators of an SSI must submit an initial compliance report no later than 60 days following the initial performance test.

20. Respondents performed the initial performance test between February 29, 2016 and March 8, 2016, making the initial compliance report due by May 7, 2016.

21. Respondents failed to submit their initial compliance report until July 7, 2016, in violation of 40 C.F.R. § 62.16030.

C. TERMS OF SETTLEMENT

22. Without admitting or denying the specific factual allegations contained in this CAFO, Respondents consent to the terms and issuance of this CAFO, and consent for the purposes of settlement to the payment of the civil penalty as set forth in this CAFO.

23. Civil Penalty: In light of the particular facts and circumstances of this matter, with specific reference to the statutory factors of Section 113(e)(1) of the Act, EPA has determined that it is fair and proper to assess a civil penalty for the violations alleged in this CAFO in the amount of thirty-five thousand dollars (\$35,000). Respondents shall pay the penalty of thirty-five thousand dollars (\$35,000) within thirty (30) days of the Effective Date.

24. Respondents shall make the penalty payment by submitting a bank, cashier's, or certified check, to the order of the "Treasurer, United States of America," in the amounts described in the preceding paragraph to:

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

Respondents may submit penalty payments via express mail to the following address:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
Telephone: (314) 418-4087

Respondents shall note the case name and docket number of this action (CAA-01-2017-0033) on the check and in an accompanying cover letter, and shall simultaneously provide copies of the check and cover letter to:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
Suite 100, Mail Code ORA18-1
5 Post Office Square
Boston, MA 02109-3912

and

Tahani Rivers
Attorney-Advisor
U.S. Environmental Protection Agency, Region 1
Suite 100, Mail Code OES4-03
5 Post Office Square
Boston, MA 02109-3912

25. Pursuant to Section 113(d)(5) of the CAA, if Respondents fail to pay the penalty amount they will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. 42 U.S.C. § 7413(d)(5). Interest will be assessed on the penalty if it is not paid by the due date established herein. In that event, interest will accrue from the date the CAFO was signed by the EPA Regional Judicial Officer at the “underpayment rate” established pursuant to 26 U.S.C § 6621(a)(2). In the event that the penalty is not paid when due, an additional charge will be assessed to cover the United States’ enforcement expenses, including attorneys’ fees and collection costs. A quarterly nonpayment penalty will be assessed for each

quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondents' outstanding penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter.

26. This CAFO 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 a determination of, any issue related to any federal, state, or local permit.

D. GENERAL PROVISIONS

27. The civil penalty under Paragraph 23, above, any interest, and the nonpayment penalties and/or charges as described in Paragraph 25, above, shall represent penalties assessed by EPA and shall not be deductible for purposes of federal, state, or local taxes unless allowed by law.

28. Payment of the civil penalty, and any interest, non-payment penalties, and/or other charges, does not waive, suspend, or modify the responsibility of Respondents to comply with the requirements of all of the federal laws and regulations administered by EPA and shall not be a defense to any actions subsequently commenced pursuant to said laws and regulations.

29. This CAFO constitutes a settlement by EPA of all claims against Respondents for civil penalties pursuant to Section 113 of the Act for the violations alleged in Section B of this CAFO. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA for matters not addressed in this CAFO, and it is the responsibility of Respondents to comply with all applicable provisions of federal, state, or local law. EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to address imminent hazards.

30. Except as described in Paragraph 25, above, each party shall bear its own costs and fees in this proceeding, including attorney's fees, and specifically waives any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

31. Each party certifies that at least one of their undersigned representatives is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind such party to this document.

[The remainder of this page is intentionally left blank.]

FOR CITY OF CRANSTON

Name 

Date 6/5/17

Kenneth R. Mason

Title DIRECTOR OF PUBLIC WORKS

Director of Public Works

FOR VEOLIA WATER NORTH AMERICA – NORTHEAST, LLC

Name *Henry Melrow*

Date *6/27/17*

Title *Sr. Vice President*

FOR UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

06/26/2017
Date

Tahani Ann Rivers
Tahani Ann Rivers
Attorney-Advisor
U.S. Environmental Protection Agency, Region 1

6/21/17
Date

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b) of the United States Environmental Protection Agency's Consolidated Rules of Practice, the parties to this matter have forwarded an executed Consent Agreement to me for final approval. In accordance with 40 C.F.R. § 22.18(b) and Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the foregoing Consent Agreement resolving this matter is hereby incorporated by reference into this Final Order and is hereby ratified. Respondents, City of Cranston, Rhode Island and Veolia Water North America – Northeast, LLC are ordered to pay the civil penalty amount specified in the Consent Agreement (\$35,000) in the manner indicated. The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

U.S. ENVIRONMENTAL PROTECTION AGENCY



LeAnn Jensen, Acting Regional Judicial Officer
U.S. Environmental Protection Agency, Region 1

5/28/17
Date