

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

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In the Matter of	:	<u>CONSENT AGREEMENT</u>
	:	<u>AND</u>
Samuel A. Carlson Generating Station	:	<u>FINAL ORDER</u>
	:	
Respondent.	:	DOCKET NUMBER
	:	EPCRA-02-2010-4201
	:	
Proceeding under Section 325(c) of Title III	:	
of the Superfund Amendments and Reauthorization Act	:	
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U.S. ENVIRONMENTAL
PROTECTION AGENCY-REGION 2
2710 JUL 29 PM 3:53
REGIONAL HEARING
OFFICE

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 325(c) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. §11001 *et seq.* [also known as the Emergency Planning and Community Right-to-Know Act of 1986 (hereinafter, "EPCRA")]. The "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Etc." (40 C.F.R. Part 22 (July 1, 2000)) provide in 40 C.F.R. §22.13(b) that when the parties agree to settle one or more causes of action before the filing of an Administrative Complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order pursuant to 40 C.F.R. §§22.18(b)(2) and (3).

The Director of the Division of Enforcement and Compliance Assistance of the United States Environmental Protection Agency, Region 2 ("EPA or Complainant"), alleges that the Samuel A. Carlson Generating Station located at 136 Steele Street, Jamestown, New York 14701 violated the requirements of Section 313 of EPCRA (42 U.S.C. §11023) and the regulations promulgated pursuant to that Section, codified at 40 C.F.R. Part 372.

Under Section 313 of EPCRA and 40 C.F.R. §372.22, owners or operators of a facility subject to the requirements of Section 313(b) are required to submit annually, no later than July 1 of each year, a Toxic Chemical Release Inventory Reporting Form R, EPA Form 9350-1 (hereinafter, "Form R") for each toxic chemical listed under 40 C.F.R. §372.65 and/or 40 C.F.R. §372.28 that was manufactured, imported, processed, or otherwise used during the preceding calendar year in quantities exceeding the established toxic chemical thresholds. A complete and correct Form R is required to be submitted to the Regional Administrator of the EPA and to the State in which the subject facility is located.

As an alternative to the requirements set forth above, pursuant to Section 313(f)(2) of EPCRA (42 U.S.C. §11023(f)(2)), and 40 C.F.R. §372.27, owners or operators of a facility subject to the requirements of Section 313(b) with respect to the manufacture, process or otherwise use of a toxic chemical may apply an alternate threshold of one million (1,000,000) pounds per year to that chemical if the conditions set forth in 40 C.F.R. §372.27(a) are met. If the aforementioned alternate threshold for a specific toxic chemical is applicable, such owners or operators, in lieu of filing a Form R, therefore, may submit an "Alternate Threshold Certification Statement" (Form A) pursuant to 40 C.F.R. §372.27(b). Pursuant to 40 C.F.R. §372.27(e), EPA has excluded the Persistent Bioaccumulative Toxic Chemicals (PBTs) listed in 40 C.F.R. §372.28 from eligibility for the Alternate Thresholds described in 40 C.F.R. §372.27(a). [59 FR 61502, Nov. 30, 1994, as amended at 64 FR 58750, Oct. 29, 1999; as amended at 71 FR 76944, Dec. 22, 2006; as amended at 74 FR 19005, Apr. 27, 2009]

EPA and the Samuel A. Carlson Generating Station agree that settling this matter by entering into this Consent Agreement and Final Order ("CAFO"), pursuant to 40 C.F.R. §22.13(b) and 40 C.F.R. §22.18(b)(2) and (3), is an appropriate means of resolving this case without further litigation. This CAFO is being issued pursuant to said provisions of 40 C.F.R. Part 22. No formal or adjudicated Findings of Fact or Conclusions of Law have been made. The following constitutes EPA's Findings of Fact and Conclusions of Law based upon information EPA obtained through March 30, 2010.

FINDINGS OF FACT
AND CONCLUSIONS OF LAW

1. Respondent is Samuel A. Carlson Generating Station (TRI Facility No.: 14701SMLCR136ST).
2. At all times relevant hereto, Respondent has maintained a facility located at 136 Steele Street, Jamestown, New York 14701 which is the subject of this Consent Agreement and Final Order (hereinafter, "Respondent's facility").
3. Respondent is incorporated in the State of New York.
4. Respondent is a "person" within the meaning of Section 329(7) of EPCRA (42 U.S.C. §11049).
5. Respondent is an owner of a "facility" as that term is defined by Section 329(4) of EPCRA (42 U.S.C. §11049(4)) and by 40 C.F.R. §372.3.
6. Respondent is an operator of a "facility" as that term is defined by Section 329(4) of EPCRA (42 U.S.C. §11049(4)) and by 40 C.F.R. §372.3.
7. Respondent's facility has 10 or more "full time employees" as that term is defined by 40 C.F.R. §372.3.
8. Respondent's facility is in the American Industry Classification System (NAICS) Code 221112 (Fossil Fuel Electric Power Generation).
9. Respondent's facility is subject to the requirements of Section 313(b) of EPCRA (42 U.S.C. §11023(b)) and 40 C.F.R. §372.22.
10. Barium compounds and barium are listed under 40 C.F.R. §372.65.
11. The established threshold amount for manufacturing or processing barium or barium compounds for the 2007 calendar year was 25,000 pounds. [40 C.F.R. §372.25]
12. Respondent processed approximately 25,648 pounds of barium compounds and 4,253 pounds of barium in calendar year 2007.
13. Respondent was required to submit a complete and correct Form R for barium or barium compounds for calendar year 2007 to the Administrator of EPA and to the State of New York by July 1, 2008.
14. Respondent submitted a Form R to the EPA for barium compounds for calendar year 2007 on December 16, 2008. The Form R was 168 days late.
15. Dioxin and Dioxin-Like compounds are listed under 40 C.F.R. § 372.28.

16. The established threshold amount for manufacturing, processing or otherwise using the Persistent Bioaccumulative Toxic Chemical category dioxin and dioxin-like compounds for the 2007 calendar year was 0.1 grams. [40 C.F.R. §372.28]

17. Respondent processed approximately 0.145 grams of dioxin and dioxin-like compounds in calendar year 2007.

18. Respondent was required to submit a complete and correct Form R for dioxin and dioxin-like compounds for calendar year 2007 to the Administrator of EPA and to the State of New York by July 1, 2008.

19. Respondent submitted a Form R to the EPA for dioxin and dioxin-like for calendar year 2007 on December 16, 2008. The Form R was 168 days late.

20. Hydrochloric acid is listed under 40 C.F.R. § 372.65.

21. The established threshold for processing or manufacturing hydrochloric acid as an acid aerosol was 25,000 pounds for the 2007 calendar year. [40 C.F.R. §372.25(a) or (b)]

22. Respondent manufactured approximately 176,309 pounds of hydrochloric acid in calendar year 2007.

23. Respondent was required to submit a complete and correct Form R for hydrochloric acid for calendar year 2007 to the Administrator of EPA and to the State of New York by July 1, 2008.

24. Respondent submitted a Form R to the EPA for hydrochloric acid for calendar year 2007 on December 16, 2008. The Form R was 168 days late.

25. Lead compounds is a listed chemical category under 40 C.F.R. § 372.28.

26. The established threshold amount for manufacturing, processing or otherwise using the Persistent Toxic Chemical category lead compounds was 100 pounds for the 2007 calendar year. [40 C.F.R. §372.28]

27. Respondent manufactured approximately 1,398 pounds of lead compounds in calendar year 2007.

28. Respondent was required to submit a complete and correct Form R for lead compounds for calendar year 2007 to the Administrator of EPA and to the State of New York by July 1, 2008.

29. Respondent submitted a Form R to the EPA for lead compounds for calendar year 2007 on December 16, 2008. The Form R was 168 days late.

30. Mercury compounds is a listed chemical category under 40 C.F.R. § 372.28.

31. The established threshold amount for manufacturing, processing or otherwise using the Persistent Toxic Chemical category mercury compounds was 10 pounds for the 2007 calendar year. [40 C.F.R. §372.28]

32. Respondent manufactured approximately 220 pounds of mercury compounds in calendar year 2007.

33. Respondent was required to submit a complete and correct Form R for mercury compounds for calendar year 2007 to the Administrator of EPA and to the State of New York by July 1, 2008.

34. Respondent submitted a Form R to the EPA for mercury compounds for calendar year 2007 on December 16, 2008. The Form R was 168 days late.

35. Sulfuric acid is listed under 40 C.F.R. § 372.65.

36. The established threshold amount for processing or manufacturing sulfuric acid as an acid aerosol was 25,000 pounds for the 2007 calendar year. [40 C.F.R. §372.25(a) or (b)]

37. Respondent manufactured approximately 65,440 pounds of sulfuric acid in calendar year 2007.

38. Respondent was required to submit a complete and correct Form R for sulfuric acid for calendar year 2007 to the Administrator of EPA and to the State of New York by July 1, 2008.

39. Respondent submitted a Form R to the EPA for sulfuric acid for calendar year 2007 on December 16, 2008. The Form R was 168 days late.

40. Each of Respondent's above-described failures to submit timely, complete and correct Form R reports for barium compounds, dioxin and dioxin-like compounds, hydrochloric acid, lead compounds, mercury compounds and sulfuric acid for calendar year 2007 constitute a failure to comply with Section 313 of EPCRA, 42 U.S.C. §11023, and with 40 C.F.R. Part 372.

TERMS OF CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 325(c) of EPCRA, and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Etc., 40 C.F.R. §22.18 (hereinafter, "Consolidated Rules"), it is hereby agreed by and between the parties, and Respondent voluntarily and knowingly agrees as follows:

1. Respondent certifies herein that any and all EPA Toxic Chemical Release Inventory Forms submitted for the above-described violations comply with the requirements of Section 313 of EPCRA and the regulations set forth at 40 C.F.R. Part 372.

2. For the purpose of this proceeding, Respondent: (a) admits the jurisdictional allegations of this Consent Agreement as applied to the facility as set forth in paragraphs 1 thru 40, inclusive; and (b) neither admits nor denies the Findings of Fact and Conclusions of Law section, above.

3. Respondent shall pay a civil penalty totaling **TEN THOUSAND NINE HUNDRED THIRTY-SIX DOLLARS (\$10,936)**. Payment shall be made by cashier's or certified check or by Electronic Fund Transfer (EFT). If the payment is made by check, then the check shall be made payable to the "**Treasurer, United States of America,**" and shall be mailed to:

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

The check shall be identified with a notation thereon listing the following: **IN THE MATTER OF Samuel A. Carlson Generating Station** and shall bear thereon the **Docket Number EPCRA-02-2010-4201**. Payment must be received at the above address on or before 45 calendar days after the date of signature of the Final Order at the end of this document (the date by which payment must be received shall hereafter be referred to as the "due date"). If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment.
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045.
- 3) Account Code for Federal Reserve Bank of New York receiving payment: 68010727.
- 4) Federal Reserve Bank of New York ABA routing number: 021030004.
- 5) Field Tag 4200 of the Fedwire message should read " D 68010727 Environmental Protection Agency."
- 6) Name of Respondent: **Samuel A. Carlson Generating Station**
- 7) Case Number: **EPCRA-02-2010-4201**.

Such EFT must be received on or before 45 calendar days after the due date of this CAFO. Whether the payment is made by check or by EFT, the Respondent shall promptly thereafter furnish reasonable proof that such payment has been made to both:

Karen Maples, Regional Hearing Clerk
Office of the Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 2
290 Broadway, 16th Floor (1631)
New York, New York 10007-1866

and

Daniel J. Kraft, Acting Chief
Pesticides and Toxic Substances Branch
U.S. Environmental Protection Agency - Region 2
2890 Woodbridge Avenue (Bldg. 10, MS-105)
Edison, New Jersey 08837

a. Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice for collection.

b. Further, if payment is not received on or before the due date, interest will be assessed, at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. §3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid.

c. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

SUPPLEMENTAL ENVIRONMENTAL PROJECT

4. Respondent agrees to undertake the following Supplemental Environmental Project ("SEP"), which the parties agree is intended to secure significant environmental or public health protection and improvements:

a. Project Summary – Pollution Prevention Assessment

The Carlson Generating Station, a division of the Jamestown Board of Public Utilities, will commit to spending at least \$22,628 on a Pollution Prevention Assessment Project. The Carlson Generating Station will hire Neundorfer, Inc. to evaluate the voltage control power circuitry of its in-service electrostatic precipitators to help optimize operations to reduce the particulate matter being emitted from the stacks associated with the burning of coal at the facility. An electrostatic precipitator is a large, industrial emission-control unit designed to trap and remove ash particles from the boiler flue gas. The facility is currently meeting the conditions of its air permit

for particulate emissions at the facility. The overall goal of the project would be to reduce particulate emissions from the coal burning operations by optimizing the precipitator operation and maintenance through improved staff training, and a system upgrade, if feasible. By-products of the coal burning operation include barium compounds, dioxin and dioxin-like compounds, lead and mercury compounds. Such maximization would potentially decrease the amount of any particulates containing these Toxic Release Inventory regulated chemicals.

This project involves conducting a personnel training program to improve the users knowledge of how the precipitator operates. It is anticipated that such knowledge will improve performance, reduce opacity and increase reliability through:

- increased knowledge of the functionality of the equipment,
- increased understanding of how to diagnose problems quickly so that collection efficiency can be maintained, reducing or minimizing opacity excursions,
- increased understanding of how to identify conditions that may result in future problems, and
- increased understanding of how to prioritize remedies to increase unit reliability.

Another aspect of the training will be to minimize the risk to personal safety while they are working on high voltage equipment. (Attachment 1)

b. Respondent hereby certifies that, as of the date of this Consent Agreement and Final Order, Respondent was not required to perform or develop the SEP by any federal, state, or local law or regulation; nor is Respondent required to perform or develop the SEP by agreement, grant, or as injunctive relief in this or any other case or in compliance with state or local requirements. Respondent further certifies that Respondent has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

c. Under the conditions of the Supplemental Environmental Projects Policy issued by the EPA May 1, 1998, the Samuel A. Carlson Generating Station agrees to provide a copy of the assessment report from Neundorfer, Inc., at the time of its completion, to EPA and the Regional Air Pollution Control Engineer at the New York State Department of Environmental

Conservation, 270 Michigan Avenue, Buffalo, New York. Implementation of the findings is not required as part of the SEP, but would be highly recommended. This assessment should occur within 4 months of the date the Regional Administrator signs this CAFO and subsequent training should occur within 8 months of said date.

d. Whether Respondent has complied with the terms of this Consent Agreement and Final Order through implementation of the SEP project, as herein required, shall be the sole determination of EPA.

5. Respondent shall submit a SEP Final Completion Report to EPA and the Regional Air Pollution Control Engineer at the New York State Department of Environmental Conservation, on or by nine months, of the date the Regional Administrator signed this Agreement. The report shall contain the following information:

- (i) Timeline of agreed to assessment and training.
- (ii) Itemized costs, documented by copies of purchase orders and receipts or canceled checks
- (iii) Copy of the assessment both at the time of its completion and as part of the completion Report. The results of the assessment may be made available to the public, except to the extent they constitute confidential business information pursuant to 40 CFR Part 2, Subpart B.
- (iv) The final completion Report will summarize the success of the project as a whole.
- (v) The final Completion report will be due 9 months from the date the Regional Administrator signed the Consent Agreement.

6. Respondent agrees that failure to submit the SEP Completion Report or any Periodic Report required by paragraph 5, above, shall be deemed a violation of this Consent Agreement and Final Order, and Respondent shall become liable for stipulated penalties pursuant to paragraph 9, below.

7. Respondent shall maintain legible copies of documentation for any and all documents or reports submitted to EPA pursuant to this Consent Agreement and Final Order, and Respondent shall provide the documentation of any such data to EPA within seven days of a

request for such information. In all documents or reports, including, without limitation, the SEP Report, submitted to EPA pursuant to this Consent Agreement and Final Order, Respondent shall, by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

8. a. Following receipt of the SEP Report described in paragraph 5, above, EPA will do one of the following:

- (i) Accept the report;
- (ii) Reject the SEP Report, notify Respondent in writing of deficiencies in the SEP Report and grant Respondent an additional thirty (30) days in which to correct any deficiencies; or
- (iii) Reject the SEP Report and seek stipulated penalties in accordance with paragraph 9 herein.

b. If EPA elects to exercise option (ii) or (iii) above, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency or disapproval given pursuant to this paragraph within ten (10) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision to Respondent, which decision shall be final and binding upon Respondent. Respondent agrees to comply with any requirements imposed by EPA as a result of any such deficiency or failure to comply with the terms of this Consent Agreement and Final Order. In the event that the SEP is not completed as contemplated herein, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with paragraph 9, herein.

9. a. In the event that Respondent fails to comply with any of the terms or provisions of this Consent Agreement and Final Order relating to the performance of the SEP described in paragraph 5, above, and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP as described in paragraph 5 above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

(i) Except as provided in subparagraph (ii) immediately below, for a SEP which has not been completed satisfactorily pursuant to paragraph 9, Respondent shall pay a stipulated penalty to the United States in the amount of **\$22,628**.

(ii) If the SEP is not completed satisfactorily, but Respondent: a) made in good faith and timely efforts to complete the project; and b) certifies, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the SEP, Respondent shall not pay any stipulated penalty.

(iii) If the SEP is satisfactorily completed, but Respondent spent less than 90 percent of the amount of money required to be spent for the project, Respondent shall pay a stipulated penalty to the United States in the amount determined as follows:

(iv) Stipulated penalty = $[1 - \frac{\text{\$amount SEP cost expended}}{\text{\$22,628}}] \times \$19,234$

(v) If the SEP is satisfactorily completed, and Respondent spent at least 90 percent of the amount of money which was required to be spent was expended on the SEP, Respondent shall not pay any stipulated penalty.

b. The determinations of whether the SEP has been satisfactorily completed, whether Respondent has made a good faith timely effort to implement the SEP, whether specific expenditures that have been made are creditable toward the required SEP expenditures and/or whether the reason for submitting a late completion report is acceptable shall be the sole discretion of EPA.

c. A stipulated penalty under subparagraph (iii), above, shall begin to accrue on the day after the completion report is due.

d. Respondent shall pay any stipulated penalties within fifteen (15) days of receipt of a written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions of paragraph 3. Interest and late charges shall be paid as stated in paragraph 3, herein.

10. Complainant at its discretion may waive any stipulated penalties specified above.

11. Any public statement, oral or written, made by Respondent making reference to this SEP shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of Section 313 of EPCRA, 42 U.S.C. § 11023 and regulations pursuant to that Section, 40 C.F.R. Part 372."

12. a. If any event occurs, which causes or may cause delays in the completion of the SEP as required under this Agreement, Respondent shall notify EPA in writing within 10 days of the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of delay, the precise cause of delay, the measures taken by Respondent to prevent or minimize delay, and the timetable by which those measures will be implemented. Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular incident involved and constitute a waiver of Respondent's right to request an extension of its obligation under this Agreement based on such incident.

b. If the parties agree that the delay, or anticipated delay, in compliance with this Agreement has been, or will be, caused by circumstances entirely beyond the control of the Respondent, the time for performance of the SEP may be extended for a period no longer than the delay resulting from such circumstances. In such an event, the parties shall negotiate the extension of time.

c. In the event that EPA does not agree that a delay in achieving compliance with the requirements of this Agreement has been, or will be, caused by circumstances beyond the control of Respondent, EPA will notify Respondent in writing of its decision and any delays in completion of the SEP shall not be excused.

d. The burden of proving that any delay is caused by circumstances entirely beyond the control of Respondent shall rest with Respondent. Increased cost or expenses associated with the implementation of actions called for by this Agreement shall not, in any event, be a basis for

changes in this Agreement or extensions of time under section (b) of this paragraph. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

13. For federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred, in the performance of the SEP.

14. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full and final settlement of all civil liabilities under the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. §11001 et seq.) and the regulations promulgated thereunder, 40 C.F.R. Part 372, that attach, or might have attached, as a result of the Findings of Fact and Conclusions of Law set out above.

15. Respondent explicitly and knowingly consents to the assessment of the civil penalty, as set forth in this Consent Agreement, and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

16. Respondent has read the Consent Agreement, understands its terms, and voluntarily consents to its issuance and to abide by its terms and conditions, including payment of the full amount of the civil penalty in accordance with the terms set forth above. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.

17. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.08 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

18. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect respondent's obligation to comply with all applicable provisions of EPCRA and the regulations promulgated thereunder.

19. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.

20. Each party hereto agrees to bear its own costs and fees in this matter.

21. Respondent consents to service upon Respondent by a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

RESPONDENT:

Samuel A. Carlson Generating Station


BY: 
Authorizing Signature

NAME: DAVID L. LEATHERS
(PLEASE PRINT)

TITLE: GENERAL MANAGER

DATE: 6 - 29 - 10

COMPLAINANT:

FOR 
Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007

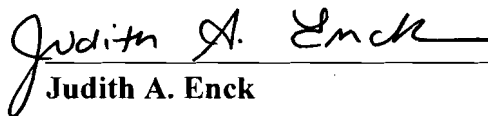
DATE: July 1, 2010

In the Matter of the Samuel A. Carlson Generating Station
Docket Number EPCRA-02-2010-4201

FINAL ORDER

The Regional Administrator of EPA, Region 2, concurs in the foregoing Consent Agreement (including Attachment A) in the case of **In the Matter of Samuel A. Carlson Generating Station**, bearing **Docket No. EPCRA-02-2010-4201**. Said Consent Agreement, having been duly accepted and entered into by the parties, is hereby ratified, incorporated into and issued, as this Final Order, which shall become effective when filed with the Regional Hearing Clerk of EPA, Region 2. 40 C.F.R. § 22.31(b). This Final Order is being entered pursuant to the authority of 40 C.F.R. §§ 22.13(b) and 22.18(b)(3) and shall constitute an order issued under authority of Section 325(c) of EPCRA 42 U.S.C. § 11045(c).

DATE: July 14, 2010



Judith A. Enck
Regional Administrator
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007

Samuel A. Carlson Generating Station
Docket No.: EPCRA-02-2010-4201

ATTACHMENT 1

SUPPLEMENTAL ENVIRONMENTAL PROJECT SUPPORTING DOCUMENTS

SEP Costs
Steven Dineen
to:
Mary Kowalski
01/25/2010 03:24 PM
Show Details

Hi Mary Ann:

Please find attached 3 documents showing the costs for the SEP. We are still awaiting additional info on the precipitator optimizations and what we can expect from the optimization. Hopefully we can target a phone call with you say this Friday sometime.

\$	7,391.86	8 hrs Plant personnel cost
\$	7,500.00	training for 20 people
\$	8,500.00	Electrical Eng design review
<hr/>		
\$	23,391.86	Total BPU expense item 1 SEP

Regards, Steve



NEUNDORFER
PARTICULATE KNOWLEDGE

January 4, 2010

Mr. Kyle Joesel
Jamestown Board of Utilities
Carlson Plant
92 Steel Street
Jamestown, NY 14702

Re: Proposal for electrical services, Neundorfer quote 10-3256

Mr. Joesel,

Thank you for this opportunity to provide you with this quotation for electrical field service to be provided at Carlson plant.

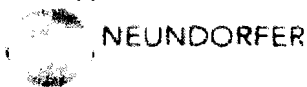
The purpose of this service is to evaluate the voltage control power circuitry of the in-service electrostatic precipitators. It will be provided on-site by a Neundorfer electrical field service engineer performing an inspection, reviewing operating data and other information, such as electrical prints. The deliverable of this process will be a written report making recommendations on what equipment should be repaired, replaced or further evaluated.

The firm price for this service is **\$8,500** and is due net upon receipt of the written report which will be issued within two weeks of the conclusion of the field service visit. This price includes all travel and expenses of the engineer, his time on-site (approximately one week) and the report.

Once again, thank you for the opportunity to work with you on this project!

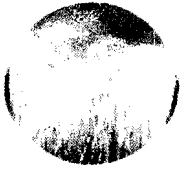
Best Regards,

Matt Quirk
Field Applications



NEUNDORFER

440.942.8990 office
440.251.1046 cell
440.942.6824 fax



NEUNDORFER
PARTICULATE KNOWLEDGE

Kyle Joesel
Jamestown Board of Public Utilities
136 Steele Street
Jamestown, NY 14702

Subject: Controls Training Seminar
Neundorfer Proposal #10-3257 Rev A

Dear Kyle:

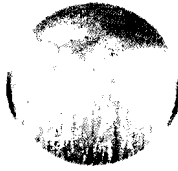
Thank you for your interest in our Precipitator Controls Training Sessions. The following is an estimated price for a two day training seminar at your facility.

Neundorfer, Inc. has several precipitator and product training programs to choose from including; custom, plant site training sessions, multi-plant and multi-company regional training seminars, our annual User's Group training sessions and interactive training CDs. You would like the training to focus on Neundorfer controls, (MVC-III and MicroRap), and the Precipitator Optimization System (POS).

Often when we do in-plant training, we train engineering and maintenance personnel separately from operators and change the focus and content to match the interests of each group. In some cases, it works well to have a mix of maintenance, engineering and operators in each training session in order to foster communication and understanding between functions. *You requested a split class of 10 attendees each.*

The following is a brief outline of what you will be provided.

Standard electrical service training sessions with some plant specific input and graphics: Our engineering and electrical service group will provide Neundorfer Controls training, and Precipitator Optimization System (POS) training for four, one half day sessions. These sessions will use Power Point slides and in-house tools to illustrate the concept, as well as some hands-on training. We will review information on your plant equipment and include configurations, some drawings, and digital photos sent by the plant in the presentations. This will require coordination with the plant and a couple of days of preparation of materials and presentations. We are planning on sending (1) Neundorfer employee to complete this 2 day training session.



NEUNDORFER
PARTICULATE KNOWLEDGE

Tentative Agenda

- *Neundorfer Controls*
 - *MVC-III and MicroRap (Classroom and hands-on)*
 - *Troubleshooting*
- *Precipitator Optimization System (POS)*
 - *Review all features*
 - *Show examples with Demo*

Please see attached document for a more detailed agenda

Estimated Cost for (15) attendees

\$7,500.00

This price includes all travel and living expenses, as well as pre-trip preparation and manuals for each attendee. Actual hours will be billed according to our Schedule of Service Rates (attached).

We look forward to working with you to design the training program that will work best for you.

Please let me know if you have any questions or would like additional information.

Regards,

Terry Cline

Regional Account Manager

Email: terryc@neundorfer.com

Electric Division
Standard Billing Rates
Effective April 1, 2009

Updated:
 April 1, 2009

8 hrs time

Power Plant Shift Operators	Biling Rate	Wage	
Victor Thompson (PPSCC)	\$ 51.34	\$ 32.93	\$ 410.76
Carl Godfrey (PPSCC)	\$ 51.34	\$ 32.93	\$ 410.76
John Caruso (PPSCC)	\$ 51.34	\$ 32.93	\$ 410.76
Charles Lee (PPSCC)	\$ 51.34	\$ 32.93	\$ 410.76
Richard Gudtz (TUROP)	\$ 45.89	\$ 29.43	\$ 367.10
Robert Smith (SBO)	\$ 44.66	\$ 28.64	\$ 357.24
Douglas Bean (TUROP)	\$ 45.89	\$ 29.43	\$ 367.10
Brian Orlando (SBO)	\$ 44.66	\$ 28.64	\$ 357.24
Jason Donelson (TUROP)	\$ 45.89	\$ 29.43	\$ 367.10
Francis Moynihan III (TUROP)	\$ 45.89	\$ 29.43	\$ 367.10
Robert Krudys (SBO)	\$ 44.66	\$ 28.64	\$ 357.24
Craig McCann (ASBO)	\$ 38.95	\$ 24.98	\$ 311.59
Michael Testa Jr. (ASBO)	\$ 38.95	\$ 24.98	\$ 311.59

Mechanics

Timothy O. Martin (PPMEC)	\$ 45.68	\$ 29.30	\$ 365.48
Alan Carlson (SPPM)	\$ 49.75	\$ 31.91	\$ 398.03
Kevin Pearson (PPMEC)	\$ 45.68	\$ 29.30	\$ 365.48
Dennis Spoon (PPMEC)	\$ 45.01	\$ 28.87	\$ 360.11

Electricians

D. Randall Johnson (PSEL)	\$ 45.68	\$ 29.30	\$ 365.48
Mitchell Simons (PSEL)	\$ 45.68	\$ 29.30	\$ 365.48
Richard Shattuck (PSEL)	\$ 45.68	\$ 29.30	\$ 365.48

total \$ 7,391.86

The above figures computed by adding to the hourly rate:

- 8.74% for 2 weeks sick leave and 3-5 weeks vacation allowance
- 5.53% for holidays, personal leave, bereavement, and jury duty
- 0.05% for Workers Compensation
- 7.05% for Social Security
- 5.39% for Health Insurance
- 20.74% for Retirement Allowance
- 8.42% for Overhead

55.92% **Total**

Total SEP Cost

\$ 7,391.86 8 hrs personnel cost
\$ 7,500.00 training for 20 people
\$ 8,500.00 Electrical Eng design review

\$ 23,391.86 Total BPU expense item 1 SEP

Training is two 4 hour sessions, so personnel cost is 8 hours

In the Matter of Samuel A. Carlson Generating Station

Docket No. EPCRA-02-2010-4201

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced Docket Number, in the following manner to the respective addressees below:

Original and One Copy
by Interoffice Mail:

Ms. Karen Maples, Regional Hearing Clerk
Office of the Regional Hearing Clerk
U.S. Environmental Protection Agency -Region 2
290 Broadway, 16th Floor (1631)
New York, New York 10007-1866

Copy by Certified Mail,
Return Receipt Requested:

David L. Leathers
General Manager
Samuel A. Carlson Generating Station
136 Steele Street
Jamestown, New York 14701


Copy by Mail:

Ms. Suzanne Wither
Division of Environmental Remediation
NYS Department of Environmental Conservation
625 Broadway - 11th Floor
Albany, New York 12233

Mr. Michael Emery, P.E.
Division of Air Resources
NYS Department of Environmental Conservation
270 Michigan Avenue
Buffalo, New York 14203-2999

Steven M. Dineen
Environmental Compliance Administrator
Samuel A. Carlson Generating Station
136 Steele Street
Jamestown, New York 14701

Dated: July 22, 2010



Mary Ann Kowalski, MS, MPH
Pesticides and Toxic Substances Branch
U.S. Environmental Protection Agency - Region 2
2890 Woodbridge Avenue (MS-105)
Edison, New Jersey 08837-3679