

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Jeffrey Kupf 11/21/12
Name of Case Attorney Date

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

Case Docket Number CWA-D1-2012-0074

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:

J & S Oil Co. Inc.
867 Western Ave.
Manchester, ME 04351

Total Dollar Amount of Receivable \$ 22,500 Due Date: 12/29/12

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

Mail Code: OES04-4

BOSTON, MASSACHUSETTS 02109-3912

RECEIVED

NOV 21 2012

EPA ORC WS
Office of Regional Hearing Clerk

November 21, 2012

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
Mail Code: ORA18-1
Boston, MA 02109-3912

BY HAND

Re: In the Matter of: J&S Oil Co. Inc.
Docket No. CWA-01-2012-0074
Consent Agreement and Final Order

Dear Ms. Santiago,

Enclosed for filing, please find a Consent Agreement and Final Order settling the matter referenced above.

Pursuant to EPA Order Classification No. 2551.1A dated June 7, 2006, the Regional Hearing Clerk (RHC) shall send a copy of the CAFO in any Clean Water Act (CWA) case assessing a penalty under the authority of Section 311 of the CWA to:

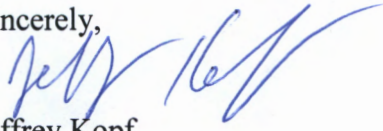
U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

In addition, the RHC must pass along the name and address of the regional attorney responsible for any collection recommendation if the civil debt becomes delinquent. Respondent has already provided the Region a copy of the check sent to the Finance Center. For this case, the responsible attorney is:

Jeffrey Kopf, Senior Enforcement Counsel,
U.S. EPA Region 1
5 Post Office Square, Suite 100 (OES04-4)
Boston, MA 02109-3912
Tel: 617-918-1796

Thank you for your attention to this matter.

Sincerely,



Jeffrey Kopf
Senior Enforcement Counsel
U.S. EPA, Region 1

Enclosure

cc: James M. Bowie, Thompson & Bowie, LLP

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

RECEIVED
NOV 21 2012
EPA ORC
Office of Regional Hearing Clerk

IN THE MATTER OF:)
)
)
J&S Oil Co., Inc.)
867 Western Ave.)
Manchester, ME 04351)
)
Respondent.)

Docket No. CWA-01-2012-0074

**CONSENT AGREEMENT AND
FINAL ORDER**

This Consent Agreement and Final Order (“CAFO”) is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 311(b)(6)(B)(ii) of the Clean Water Act (“CWA”), 33 U.S.C. § 1321(b)(6)(B)(ii), as amended by the Oil Pollution Act of 1990, 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”).

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding against J&S Oil Co., Inc. (“Respondent”) pursuant to Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6) by filing an Administrative Complaint, on July 30, 2012, Docket No. CWA-01-2012-0074 (“Complaint”).
2. The Complaint alleges that Respondent’s violation of Sections 311(j) of the CWA subjected Respondent to penalties up to the statutory maximum authorized under those statutes.
3. The factual and jurisdictional basis for proposing the assessment of civil penalties is set forth in the Complaint and incorporated herein by reference.

II. CONSENT AGREEMENT

4. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent.

5. Respondent neither admits nor denies the specific factual allegations contained in the Complaint.

Waiver of Rights

6. Respondent waives any defenses it might have as to jurisdiction and venue and consents to the terms of this CAFO.

7. Respondent waives its right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint.

8. Respondent waives its right to appeal any Final Order in this matter, and consents to the issuance of a Final Order without further adjudication.

Penalty

9. For the purpose of settlement of this action, Complainant proposes and Respondent consents to the assessment of a civil penalty of \$22,500.

Payment Terms

10. In agreeing to the penalty described in paragraph 9 above, EPA has taken into account the statutory penalty factors at Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8). Respondent shall pay a total penalty of \$22,500 which shall be due within 10 days of the final date of this CAFO, as described in Paragraph 21.

11. Respondent shall make payment by cashier's or certified check payable to "Treasurer, United States of America," and referencing the title and docket number of the action ("*In re J&S*

Oil Co., Inc., CWA-01-2012-0074”) and “Oil Spill Liability Trust Fund - 311.” The payment shall be mailed to:

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

12. Respondent shall simultaneously submit a copy of the check referenced in paragraph 11 above to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (ORA18-1)
Boston, Massachusetts 02109-3912

and

Jeffrey Kopf, Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (OES04-4)
Boston, Massachusetts 02109-3912

13. Pursuant to Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H), failure by the Respondent to pay the penalty amounts relating to the CWA violations assessed by this CAFO 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 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H), if Respondent fails to pay on a timely basis any CWA penalty payment assessed by this CAFO, 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 20 percent of the

aggregate amount of Respondent's penalties and nonpayment penalties which are 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.

14. 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.

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

16. Respondent shall bear its own costs and attorneys fees in this proceeding.

17. 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.

18. 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.

19. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 311(j) of the CWA, for the violations of the CWA specifically alleged in the Complaint. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations. Respondent understands that this CAFO constitutes a settlement of the civil matters alleged and does not have any applicability to any possible criminal liability, if any, of Respondent or its employees. 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.

20. 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 J&S OIL CO., INC.:

John Z Babb
John Babb, Jr., President
J&S Oil Company

Date: 10/26/2012

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY:

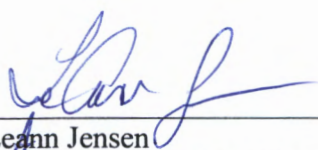
Susan Studlien
Susan Studlien, Director
Office of Environmental Stewardship
U.S. EPA, Region 1

Date: 11/13/12

III. FINAL ORDER

21. The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. The Respondent is hereby ordered to comply with the terms of the above Consent Agreement, which will 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: _____



In the Matter of: J&S Oil Company, Inc.
Docket No. CWA-01-2012-0074

CERTIFICATE OF SERVICE

I certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER was sent 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. EPA, Region I
5 Post Office Sq., Suite 100
Mail Code: ORA18-1
Boston, MA 02109-3912

Copy by certified mail,
return receipt requested:

James M. Bowie
Thompson & Bowie, LLP
PO Box 4630
Portland, ME 04112-4630

Date:

11/21/12



Jeffrey Kopf, Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region I
5 Post Office Sq., Suite 100
Mail Code: OES04-4
Boston, MA 02109-3912
tel: (617) 918-1796
fax: (617) 918-0796
email: kopf.jeff@epa.gov