

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

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In the Matter of:)

Southeastern New England)
Shipbuilding Corporation)

North Kingstown, Rhode Island 02852)

Respondent.)

Docket No. CAA-01-2008-0104

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

CONSENT AGREEMENT AND FINAL ORDER

WHEREAS, the United States Environmental Protection Agency ("EPA"), issued an Administrative Complaint and Notice of Opportunity for Hearing ("Complaint") to Southeastern New England Shipbuilding Corporation in September 2008.

WHEREAS, in an Answer to the Complaint filed in November 2008, Respondent Senesco Marine, LLC asserted that Southeastern New England Shipbuilding Corporation was acquired by RSRI Acquisition, LLC in 2006, and that RSRI Acquisition, LLC then changed its name to Senesco Marine, LLC ("Senesco" or "Respondent").

WHEREAS, EPA and Respondent agree that settlement of this cause of action is in the public interest and that entry of this Consent Agreement and Final Order ("CAFO") without further litigation is the most appropriate means of resolving the enforcement action commenced by the filing of the Complaint.

WHEREAS, the parties agree to settle the action through the issuance of this CAFO, pursuant to 40 C.F.R. §22.18(b) of EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination, or Suspension of Permits," 40 C.F.R. Part 22.

NOW, THEREFORE, before taking any testimony, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, it is hereby agreed and ordered as follows.

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding for the assessment of a civil penalty of \$398,000, pursuant to Sections 113(a) and (d) of the Clean Air Act ("CAA"), 42 U.S.C. §7413(a) and (d).

2. The Complaint alleges that Respondent violated: 1) permitting requirements of the Rhode Island State Implementation Plan ("SIP"), at Regulation 9; 2) operating permit requirements of Title V of the CAA; and 3) provisions of the National Emission Standards for Hazardous Air Pollutants for Ship Building and Repair Facilities ("Ship NESHAP") promulgated under Section 112 of the CAA. The violations are alleged to have taken place at Respondent's shipbuilding facility in North Kingstown, Rhode Island ("Facility").

3. The provisions of this CAFO shall apply to and be binding on EPA and on Respondent, its officers and directors (in their corporate capacities only), successors, and assigns.

4. Without admitting or denying the factual allegations contained in the Complaint, Respondent consents to the terms of this Consent Agreement and to the issuance of the Final Order hereinafter recited.

5. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and hereby waives any defenses it might have as to jurisdiction and venue.

6. Respondent hereby waives its right to request a judicial or administrative hearing on any issue of law or fact set forth in the Complaint and waives its right to appeal the Final Order.

II. TERMS OF SETTLEMENT

7. Respondent hereby certifies that the Facility is currently in compliance with the requirements set forth in the Complaint.

8. In light of the above, and taking into account such other circumstances as justice may require, EPA has determined that it is fair and proper to assess a total civil penalty in the amount of \$224,000 for the CAA violations alleged in the Complaint.

9. Respondent shall pay the penalty of \$224,000 within sixty (60) days after the effective date of this CAFO.

10. In accordance with 40 C.F.R. §22.31(b), the effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk. ✓

11. Respondent shall pay the penalty, and any interest thereon, by submitting a bank, cashier's, or certified check, payable to "Treasurer, United States of America." This check shall be sent to:

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

Respondent shall note the case name and respective docket number ("In the Matter of Southeastern New England Shipbuilding Corporation," EPA Docket No. CAA-01-2008-0104) on the check and in an accompanying cover letter and shall provide copies of the check and letter to:

In the Matter of Southeastern New England Shipbuilding Corporation
EPA Docket No. CAA-01-2008-0104
Consent Agreement and Final Order

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region I
Suite 1100, Mail Code: RAA
One Congress Street
Boston, MA 02114-2023
and

Thomas T. Olivier
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region I
One Congress Street
Suite 1100, Mail Code: SEL
Boston, MA 02114-2023

12. Pursuant to § 113(d)(5) of the Clean Air Act, 42 U.S.C. § 7413(d)(5), if Respondent fails to pay any penalty amount it will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Interest will be assessed on the civil penalty if it is not paid within 60 calendar days of Respondent's receipt of the Consent Agreement and Order signed by the Regional Judicial Officer. In that event, interest will accrue from the date the Consent Agreement and Order was signed by the 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. In addition, 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 Respondent's outstanding civil penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter.

13. All penalties, interest, and other charges shall represent penalties assessed by EPA, and shall not be deductible for purposes of federal taxes.

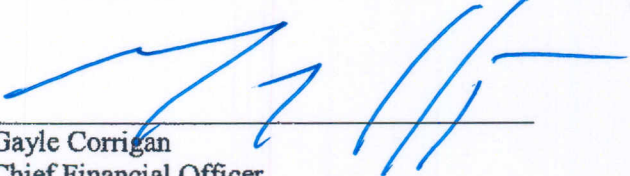
14. Payment of the penalties, interest, or other charges does not waive, suspend, or modify the responsibility of Respondent to comply with the requirements of all of the federal laws and regulations administered by EPA and, except as provided in paragraph 15 herein, shall not be a defense to any actions subsequently commenced pursuant to said laws and regulations.

15. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Sections 113(a) and (d) of the CAA, against Southeastern New England Shipbuilding Corporation, RSRI Acquisition, LLC, and Senesco Marine, LLC, for the specific violations alleged in the Complaint. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with said laws and regulations. EPA reserves all its other criminal and civil enforcement authorities, including the authority to address conditions at Respondent's facility that may present an imminent and substantial endangerment to public health or the environment.

16. Each party shall bear its own costs and attorneys' fees in this proceeding.

17. The undersigned representative of Respondent certifies that s/he is fully authorized by Senesco Marine, LLC to enter into the terms and conditions of this CAFO and to execute and legally bind Senesco Marine, LLC to it.

For Respondent:



Gayle Corrigan
Chief Financial Officer
Senesco Marine, LLC

Date

8/13/09

For Complainant:

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

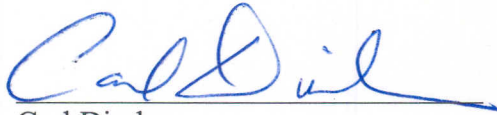
08/12/09
Date

Thomas T. Olivier
Thomas T. Olivier
Senior Enforcement Counsel
U.S. EPA, Region 1

8/13/09
Date

IV. FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is ordered to comply with the terms of the above Consent Agreement.



Carl Dierker
Acting Regional Judicial Officer
U.S. EPA, Region 1

August 13, 2009

Date