

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Steven Vignani 4/29/19  
Name of Case Attorney Date

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

Case Docket Number RARA-01-2019-0016

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:

Nutra-Blend, LLC, dba Old Mill Troy  
79 Walput Street  
St. Albans, VT 05478

Total Dollar Amount of Receivable \$ 111,000 Due Date: 5/29/19

SEP due? Yes \_\_\_\_\_ No  Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:

1<sup>st</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
2<sup>nd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
5<sup>th</sup> \$ \_\_\_\_\_ 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 1  
5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MA 02109-3912

April 29, 2019

VIA HAND DELIVERY

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square  
Suite 100, Mail Code ORC 4-6  
Boston, MA 02109-3912

RECEIVED

APR 29 2019  
EPA ORC  
Office of Regional Hearing Clerk  
WS

Re: In the Matter of Nutra-Blend, L.L.C., d/b/a Old Mill Troy,  
Docket No. RCRA-01-2019-0016

Dear Ms. Santiago:

Please accept for filing the original and one copy of a Consent Agreement and Final Order (“CAFO”) settling the above-captioned Emergency Planning and Community Right-to-Know Act enforcement case brought by Complainant EPA Region 1 against Respondent Nutra-Blend, L.L.C., d/b/a Old Mill Troy, at its animal feed supplement manufacturing facility in St. Albans, Vermont.

The Complaint in this case was filed on March 28, 2019. The settlement CAFO was executed by the parties and was signed by the Regional Judicial Office on April 26, 2019.

If you have any questions regarding this CAFO, please call me at (617) 918-1729. Thank you for your assistance with this matter.

Sincerely,

Steven J. Viggiani  
Senior Enforcement Counsel  
EPA Region 1

Attachments (original and one copy)

cc : B. Andrew Brown, Esq., Dorsey & Whitney  
(via regular mail and email)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

RECEIVED

APR 29 2019

EPA ORC WS  
Office of Regional Hearing Clerk

\_\_\_\_\_  
IN THE MATTER OF )  
 )  
 )  
Nutra-Blend, L.L.C., d/b/a Old Mill Troy )  
79 Walnut Street )  
St. Albans, Vermont 05478, )  
 )  
Respondent. )  
 )  
Proceeding under Section 325(c) of the )  
Emergency Planning and Community )  
Right-to-Know Act, 42 U.S.C. § 11045(c) )  
\_\_\_\_\_ )

Docket No: EPCRA-01-2019-0016

**CONSENT AGREEMENT  
AND FINAL ORDER**

**CONSENT AGREEMENT**

The United States Environmental Protection Agency (“EPA”), Region 1 (“Complainant”), having filed an administrative Complaint and Notice of Opportunity for Hearing (“Complaint”) on March 28, 2019, against Nutra-Blend, L.L.C. (“Respondent”), doing business as “Old Mill Troy” in St. Albans, Vermont, and seeking civil penalties for Respondent’s alleged violations of the Emergency Planning and Community Right-to-Know Act (“EPCRA”) and federal regulations promulgated thereunder;

Complainant and Respondent (together, the “Parties”), having agreed that settlement of this matter is in the public interest, and that entry of this Consent Decree and Final Order (“CAFO”) without further litigation is the most appropriate means of settling this matter;

NOW THEREFORE, before the taking of any testimony, without adjudication of any issue of law or fact herein, the Parties agree to comply with the terms of this CAFO.

**I. CASE BACKGROUND**

1. Complainant initiated this proceeding for the assessment of civil penalties pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), by filing the Complaint in

accordance with EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules") set out at 40 C.F.R. Part 22.

2. EPA alleged in the Complaint that Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and its implementing regulations at 40 C.F.R. Part 372, for the failure to submit information to EPA regarding Respondent's processing of listed toxic chemical compounds by required deadlines.

## **II. TERMS OF CONSENT AGREEMENT**

3. Respondent certifies that it has corrected the alleged violations cited in the Complaint and will operate its manufacturing facility in St. Albans, Vermont in compliance with Section 313 of EPCRA, 42 U.S.C. § 11023, and regulations promulgated thereunder at 40 C.F.R. Part 372.

4. Respondent admits, for the purposes of this proceeding, that Complainant has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states claims upon which relief may be granted against Respondent. Respondent waives any defenses it might have as to jurisdiction and venue.

5. Respondent waives its right to 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.

6. Without admitting or denying the facts and violations alleged in the Complaint, Respondent consents to the terms and issuance of this CAFO and agrees to the payment of the civil penalty set forth herein. The provisions of this CAFO shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, successors, and assigns.

7. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and taking into account the particular facts and circumstances of this case with reference to relevant statutory

penalty criteria, applicable penalty policies, and penalty calculation factors therein, Complainant has determined that it is fair and proper that Respondent pay a total civil penalty in the amount of \$111,060 (one hundred eleven thousand and sixty dollars) to resolve the violations alleged in the Complaint.

8. Within thirty (30) days of the effective date of this CAFO, Respondent shall submit a company, bank, cashier's, or certified check in the amount of \$111,060, payable to the order of the "Treasurer, United States of America." The check should be sent via regular mail to:

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

or, Respondent may make payment by electronic funds transfer via:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT Address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

Respondent shall include the case name and docket number ("In the Matter of Nutra-Blend, L.L.C., d/b/a Old Mill Troy, Docket No. EPCRA-01-2019-0016") on the face of the check or wire transfer confirmation. In addition, at the time of payment, Respondent shall simultaneously send notice of the payment and a copy of the check or electronic wire transfer confirmation to:

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
5 Post Office Square, Suite 100  
Mail Code ORC 4-6  
Boston, MA 02109-3912



and

Steven J. Viggiani  
Senior Enforcement Counsel  
U.S. EPA, Region 1  
5 Post Office Square, Suite 100  
Mail Code OES 04-3  
Boston, MA 02109-3912

9. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. In the event that Respondent does not fully pay the civil penalty required by Paragraphs 7 and 8 of this CAFO when due, the unpaid penalty shall be payable with accrued interest from the original due date to the date of payment, with the interest calculated at the rate established in accordance with 31 C.F.R. § 901.9(b)(2). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys' fees. In addition, a penalty charge of six percent per year, compounded annually, will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due, with the charge accruing from the date of delinquency in accordance with 31 C.F.R. § 901.9(d). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

10. The civil penalty paid under this CAFO, and any interest, nonpayment penalties, and other charges paid pursuant to any penalty collection action arising from this CAFO, shall represent penalties assessed by EPA within the meaning of 26 U.S.C. § 162(f), and shall not be deductible for purposes of federal, state, or local taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

11. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 325(c) of EPCRA for the violations 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. This CAFO in no way relieves Respondent or its employees of any criminal liability. 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.

12. Nothing in this CAFO shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions if Respondent is in violation of this CAFO or continues to be in violation of the statutes and regulations upon which the allegations in the Complaint are based, or for Respondent's violation of any other applicable provision of federal, state, or local law.

13. Each of the undersigned representatives of the Parties certifies that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and to legally bind his or her respective Party to it.

14. Each Party shall bear its own costs and attorneys' fees in this proceeding and specifically waives any right to recover such costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable laws.

15. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of the Parties, and approval of a Regional Judicial Officer.

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

FOR COMPLAINANT:

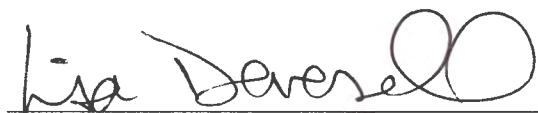


Joanna Jerison, Legal Enforcement Manager  
Office of Environmental Stewardship  
U.S. EPA, Region 1

Date: April 25, 2019



FOR RESPONDENT:



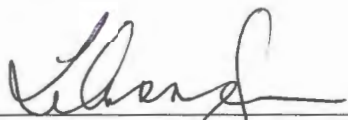
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Lisa Deverell, President  
Nutra-Blend, L.L.C.

Date: 4/23/19  
April 23, 2019

**FINAL ORDER**

Pursuant to 40 C.F.R. §§ 22.18(b) and (c) of the Consolidated Rules, the foregoing Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. Respondent Nutra-Blend, L.L.C., is ordered to pay the civil penalty amount specified in the Consent Agreement in the manner indicated therein. The terms of the Consent Agreement shall become effective on the date that the CAFO is filed with the Regional Hearing Clerk.



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

Date: April 26, 2019

In the Matter of Nutra-Blend, L.L.C., d/b/a Old Mill Troy,  
Docket No. EPCRA-01-2019-0016

**CERTIFICATE OF SERVICE OF CONSENT AGREEMENT AND FINAL ORDER**

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 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 cover letter via regular mail to Respondent at the address set forth below:

VIA 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 REGULAR MAIL:

B. Andrew Brown, Esq.  
Dorsey & Whitney, LLP  
50 South Sixth Street, Suite 1500  
Minneapolis, Minnesota 55402-1498



Steven J. Viggiani  
Senior Enforcement Counsel  
U.S. EPA, Region 1

4/29/19  
Date