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BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)
)
)
JACK THOMPSON AND)
THOMPSON LEASING)
COMPANY, INC.)
Aberdeen, Washington)

Docket No. CWA-10-2008-0095
Consent Agreement and Final Order

Respondents)

I. AUTHORITY

1.1. This Consent Agreement and Final Order ("CAFO") is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 309(g) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(g). The Administrator has delegated the authority to issue the Final Order contained in Part IV of this CAFO to the Regional Judicial Officer.

1.2. Pursuant to Section 309(g)(1) and (g)(2)(A) of the CWA and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA hereby issues, and Respondents Jack Thompson and Thompson Leasing Company, Inc., hereby consent to, the issuance of the Final Order contained in Part IV of this CAFO.

1 **II. PRELIMINARY STATEMENT**

2 2.1. On June 8, 2008, EPA initiated this proceeding against Jack Thompson, as an
3 individual, and Thompson Leasing Company, Inc. ("Respondents") pursuant to Section 309(g) of
4 the CWA, 33 U.S.C. § 1319(g), by filing a Complaint against Respondents for the assessment of
5 an administrative penalty.

6 2.2. As a result of information exchanged during settlement negotiations, EPA and the
7 Respondents have agreed to resolve this matter by executing this CAFO.

8 2.2. The complete factual and jurisdictional basis for proposing the assessment of a
9 civil penalty is set forth in the Complaint which is incorporated herein by reference.

10 **III. CONSENT AGREEMENT**

11 The parties to this action hereby stipulate as follows:

12 3.1. Respondents admit to EPA's jurisdictional allegations in the Complaint for
13 purposes of this proceeding under Section 309(g) of the CWA and 40 C.F.R. Part 22.

14 3.2. For purposes of settling this case under 40 C.F.R. § 22.18(b)(2), Respondents
15 neither admit nor deny the specific factual allegations contained in the Complaint.

16 3.3. Pursuant to Section 309(g) of the CWA, 33 U.S.C. §1319(g), considering the
17 nature, circumstances, extent, and gravity of the alleged violations, EPA has determined an
18 appropriate penalty to settle this action is FOURTEEN THOUSAND DOLLARS (\$14,000).

19 3.4. Respondents consent to issuance of the Final Order set forth in Part IV., and agree
20 to pay the total civil penalty set forth in Paragraph 3.3, above, plus all applicable interest on such
21 penalty, in accordance with the payment schedule described in subsections 3.4.1 and 3.4.2,
22 below. The payments are payments in settlement of Respondents' liability for Federal civil
23 penalties for all CWA violations alleged in the Complaint.

24 3.4.1. Within thirty (30) days of the effective date of the Final Order,
25 Respondents shall pay a first installment of \$7,000.00.

1 3.4.2 No later than December 31, 2008, Respondents shall pay a second
2 installment of \$7,061.56 (\$7,000.00 plus \$61.56 interest).

3 3.5. In accordance with the payment schedule set forth in Subsection 3.4. above, all
4 payments shall be made by cashier's check or certified check, payable to the order of "U.S.
5 Treasury" and shall be mailed to the following address:

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

11 Respondents shall note on the check(s) the title and docket number of this case. Respondents
12 may also pay the penalty by wire transfer in accordance with instructions provided by EPA.

13 3.6. Respondents shall serve photocopies of the checks or documentation of the wire
14 transfers described above on the Regional Hearing Clerk and Complainant at the following two
15 addresses:

16 Regional Hearing Clerk
17 U.S. Environmental Protection Agency
18 1200 Sixth Avenue, Suite 900
19 Mail Stop ORC-158
20 Seattle, Washington 98101

21 Rebecca Chu
22 U.S. Environmental Protection Agency
23 Aquatic Resources Unit
24 Office of Ecosystems, Tribal and Public Affairs
25 1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

3.8. If Respondents fail to pay any portion of the penalty assessed by this CAFO in
full on the specified schedule, Respondents shall also be responsible for payment of the
following amounts:

1 a. Interest. Pursuant to Section 309(g)(9) of the Act, 33 U.S.C. 1319(g)(9),
2 any unpaid portion of the assessed penalty shall bear interest at a rate established by the
3 Secretary of Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the
4 Final Order set forth in Part V, below, provided, however, that no interest shall be
5 payable on any portion of the assessed penalty that is paid within thirty (30) days of the
6 effective date of the Final Order.

7 b. Attorneys Fees, Collection Costs, Nonpayment Penalty. Pursuant to
8 Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), should Respondents fail to pay
9 on a timely basis the amount of the penalty assessed by the Final Order contained herein,
10 Respondents shall pay (in addition to any assessed penalty and interest), attorneys fees
11 and costs for collection proceedings and a quarterly nonpayment penalty for each quarter
12 during which such failure to pay persists. Such nonpayment penalty shall be in an
13 amount equal to twenty percent (20%) of the aggregate amount of Respondents' penalties
14 and nonpayment penalties which are unpaid as of the beginning of such quarter.

15 3.9. The penalties described in paragraphs 3.3 and 3.4 of this CAFO shall represent
16 civil penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

17 3.10. Except as described in paragraph 3.8. of this CAFO, each party shall bear its own
18 costs in bringing or defending this action.

19 3.11. Respondents waive any right to contest the allegations or to appeal the Final
20 Order once it becomes final.

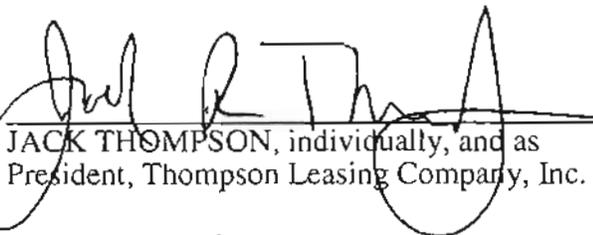
21 3.12. The provisions of this CAFO shall bind Respondents and their agents, servants,
22 employees, successors, and assigns.

23 3.13. The parties represent that they are duly authorized to execute this CAFO and that
24 the person signing this CAFO on each of their behalf is duly authorized to bind them to the terms
25 of this CAFO.

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STIPULATED AND AGREED:

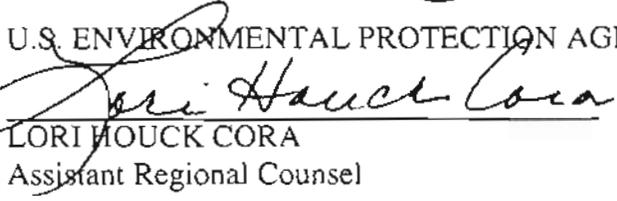
JACK THOMPSON, AND
THOMPSON LEASING COMPANY, INC.



JACK THOMPSON, individually, and as
President, Thompson Leasing Company, Inc.

Dated: 8-29-08

U.S. ENVIRONMENTAL PROTECTION AGENCY



LORI HOUCK CORA
Assistant Regional Counsel

Dated: 8/15/08

IV. FINAL ORDER

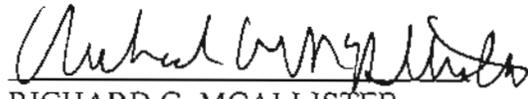
4.1. The terms of the foregoing Consent Agreement are hereby ratified and incorporated by reference into this Final Order. Respondents are hereby ordered to comply with the foregoing terms of settlement.

4.2. This CAFO constitutes a compromise and settlement by EPA and Respondents of all EPA's claims for civil penalties pursuant to the Clean Water Act for the particular violations alleged in the Complaint. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondents' obligations to comply with all applicable provisions of the CWA and regulations and permits issued thereunder.

1 4.3. In accordance with Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), and
2 40 C.F.R. § 22.38(b), the Washington Department of Ecology has been given the opportunity to
3 consult with EPA regarding the assessment of an administrative penalty against Respondents.

4 4.4. Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), in June
5 2008, EPA published public notice of its intent to assess an administrative penalty against
6 Respondents and invited public comment in accordance with 40 C.F.R. § 22.45. In response to
7 the Complaint filed on June 8, 2008, EPA received no comments. This Final Order shall become
8 effective upon filing.

9
10 SO ORDERED this 8th day of Sept, 2008.

11 
12 RICHARD G. MCALLISTER
13 Regional Judicial Officer
14 U.S. Environmental Protection Agency
15 Region 10
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CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in **In the Matter of: Jack Thompson and Thompson Leasing Company, Inc., DOCKET NO.: CWA-10-2008-0095** was filed with the Regional Hearing Clerk on September 8, 2008.

On September 8, 2008 the undersigned certifies that a true and correct copy of the document was delivered to:

Lori Cora, Esquire
US Environmental Protection Agency
1200 Sixth Avenue, ORC-158
Suite 900
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on September 8, 2008, to:

Wayne D. Hagen Sr.
Hagen & Associates
110 West Market, Ste. 202
Aberdeen, WA 98520

Jack Thompson
Thompson Leasing Company
P.O. Box 1705
Aberdeen, WA 98520

DATED this 8th day of September 2008.



Carol Kennedy
Regional Hearing Clerk
EPA Region 10