

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Rivera for Raphael Cody  
Name of Case Attorney

6/11/08  
Date

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

Case Docket Number EPCRA-01-2008-0054

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:

Summit Ventures N.E., LLC  
1840 Sugarbush Access Rd.  
Warren, VT 05674

Total Dollar Amount of Receivable \$ 13,980.00 Due Date: 7/3/08

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  
New England Region  
1 Congress Street, Suite 1100  
Boston, Massachusetts 02114-2023

RECEIVED  
2008 JUN 11 A 10:23  
EPA ORC  
OFFICE OF  
REGIONAL HEARING CLERK

June 11, 2008

VIA HAND-DELIVERY

Ms. Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region I  
One Congress Street, Suite 1100 (RAA)  
Boston, MA 02114-2023

RE: In the Matter of Summit Ventures N.E., LLC  
EPA Docket No. EPCRA-01-2008-0054

Dear Ms. Santiago:

Enclosed for filing please find a Consent Agreement and Final Order (CAFO) resolving the above-referenced matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Raphael Cody".

Raphael Cody  
Enforcement Counsel  
U.S. Environmental Protection Agency – Region I

Enclosures: CAFO  
Certificate of Service

cc: Winthrop H. Smith, President and Chief Operating Officer, Summit Ventures  
Jason Lisai, Summit Ventures  
John Ponsetto, Gravel & Shea

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
BEFORE THE ADMINISTRATOR

RECEIVED  
2008 JUN 11 A 10:21  
EPA/RC  
OFFICE OF  
REGIONAL HEARING CLERK

\_\_\_\_\_)  
In the Matter of: )  
Summit Ventures N.E., LLC )  
1840 Sugarbush Access Road )  
Warren, VT 05674 )  
Respondent. )  
\_\_\_\_\_)

Docket No: EPCRA-01-2008-0054

**CONSENT AGREEMENT  
AND  
FINAL ORDER**

Complainant, the United States Environmental Protection Agency ("EPA"), having filed the Complaint herein against Respondent, Summit Ventures N.E., LLC, the Parties herein; and

Complainant and Respondent having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order without further litigation is the most appropriate means of resolving this matter.

NOW, THEREFORE, before the taking of any testimony, upon the pleading, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby Ordered and Adjudged as follows:

**I. PRELIMINARY STATEMENT**

1. EPA initiated this proceeding for the assessment of a civil penalty of twenty-nine thousand two hundred dollars (\$29,200), pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045, and the regulations promulgated thereunder, found at 40 C.F.R. Part 370.

2. The Complaint alleges that Respondent violated regulations concerning the

submission of chemical inventory forms (Tier II), for the hazardous chemicals propane, diesel fuel, gasoline, sodium hypochlorite 15% and aluminum sulfate 48.5% stored at Respondent's facility in Warren, Vermont in quantities equal to or greater than the chemical-specific minimum threshold for these chemicals set forth at 40 C.F.R. §370.20 (b).

3. The provisions of this Consent Agreement and Final Order shall apply to and be binding on the Parties, their officers, directors, agents, servants, employees, successors and assigns.

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. Respondent waives any defenses it might have as to jurisdiction and venue and consents to the terms of this Consent Agreement and Final Order.

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

## **II. TERMS OF SETTLEMENT**

6. Respondent has demonstrated to the satisfaction of EPA that it has complied with the reporting requirement that formed the basis of Count I of the Complaint.

7. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. §11045(c), the nature of the violation, Respondent's cooperative attitude, and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of eighteen thousand nine hundred and eighty dollars (\$18,980).

8. Respondent consents to the issuance of the Consent Agreement and Final Order

hereinafter recited and consents for purposes of settlement to the payment of the civil penalty cited in the foregoing paragraph.

9. Within thirty (30) days of receiving a copy of this Consent Agreement and Final Order signed by the EPA Regional Judicial Officer, Region I, Respondent shall submit a cashier's or certified check, to the order of the "Treasurer, United States of America," in the amount of eighteen thousand nine hundred and eighty dollars (\$18,980), to:

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

Respondent shall provide copies of the check to:

Regional Hearing Clerk (RAA)  
U.S. Environmental Protection Agency  
One Congress Street, Suite 1100  
Boston, MA 02114-2023

and

Raphael Cody  
Enforcement Counsel (HBT)  
U.S. Environmental Protection Agency  
One Congress Street, Suite 1100  
Boston, MA 02114-2023

10. 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 any partial payment of the civil penalty, plus interest thereon, is not paid when due without demand, the penalty plus accrued interest shall be payable with additional interest from the original due date to the date of payment, at the rate of the United

States Treasury tax and loan rate in accordance with 31 C.F.R. §901.9(b)(2). In addition, a penalty charge of six percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. §901.9(d).

11. The civil 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.

12. All penalties, interest, and charges payable pursuant to this Consent Agreement and Final Order shall represent civil penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

13. Respondent shall bear its own costs and attorneys fees in connection with the action resolved by this Consent Agreement and Final Order.

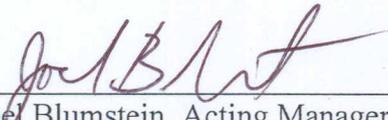
14. This Consent Agreement and Final Order constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 325 of EPCRA for the violations of EPCRA alleged in the Complaint. Compliance with this Consent Agreement and Final Order shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

15. This Consent Agreement and Final Order in no way relieves Summit Ventures N.E., LLC or its employees of any criminal liability. Nothing in the Consent Agreement and Final Order shall be construed to limit the authority of the United States to

undertake any action against Summit Ventures N.E., LLC in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

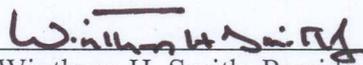
16. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.

For Complainant:

  
\_\_\_\_\_  
Joel Blumstein, Acting Manager  
Enforcement Unit  
Office of Environmental Stewardship  
U.S. Environmental Protection  
Agency, Region I

Date: 5/28/08

For Respondent:

  
\_\_\_\_\_  
Winthrop H. Smith, President and Chief  
Operating Officer  
Summit Ventures N.E., LLC

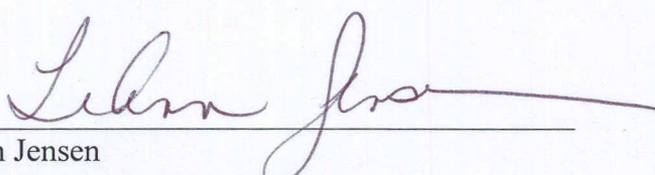
Date: April 28, 2008

**III. FINAL ORDER**

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

Date:

6/3/08

  
\_\_\_\_\_  
Leann Jensen  
Acting Regional Judicial Officer  
U.S. Environmental Protection Agency, Region I

**AFFIDAVIT**

I, Winthrop H. Smith, do hereby depose and say that:

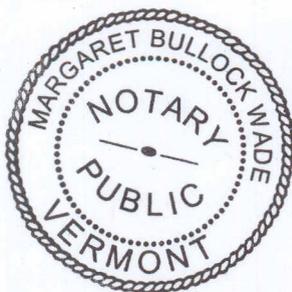
1. I am a President of Summit Ventures N.E., LLC.
2. I am authorized by Summit Ventures N.E., LLC to submit this affidavit on its behalf.
3. Summit Ventures N.E., LLC hereby affirms that it has complied with the reporting requirements that formed the basis of Count I of the foregoing Complaint.
4. The foregoing statements are made on the basis of my own personal knowledge and I believe that the statements are true.

Signed under the pains and penalties of perjury this 28 day of April  
2008.

Winthrop H. Smith  
Winthrop H. Smith, President and  
Chief Operating Officer

State of Vermont  
County of Washington

On this 28 day of April, 2008, before me, the undersigned notary public, personally appeared Winthrop H. Smith, as President and Chief Operating Officer of Summit Ventures N.E., LLC, proved to me through satisfactory evidence of identification to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.



Margaret B. Wade  
Notary Public  
My commission expires 2/10/2011

