

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES**

North Country Environmental Services, Inc
3 Pitkin Court
Montpelier, Vermont 05602

**ADMINISTRATIVE FINE
Docket No. AF 2000-037**

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Waste Management Division ("the Division") and North Country Environmental Services, Inc., (NCES) parties to the above captioned matter, and stipulate to the following:

1. Pursuant to RSA 147-A:17-a, RSA 485-C and Env-C 600, the Commissioner of the Department of Environmental Services ("DES") is authorized to impose certain administrative fines.
2. On March 18, 1999, the Division refused to grant NCES a waiver to the provisions of Env-Wm 404.01(b)(2), the NH mixture rule.
3. On May 27, 1999, NCES submitted to the Division analytical data received by NCES on May 3, 1999. The submittal contained the analytical test results for monitoring well MW-406L sampled in April 1999. The analytical data showed that the water sample collected from release detection monitoring well MW-406L contained high concentrations of several volatile organic compounds.
4. On September 21, 1999 and January 21, 2000, NCES submitted responses to the Information Requests that were issued by the Division to determine NCES's compliance with the New Hampshire Hazardous Waste Rules.
5. As a result of the monitoring well data and NCES's September 21, 1999 and January 21, 2000 responses to the Division's Information Request, Letter of Deficiency No. WMD 00-11 was issued to NCES.
6. The Division is seeking to impose administrative fines totaling \$17,000 against NCES under Env-C 612 for violations of RSA 147-A and under Env-C 610 for the violation of rules adopted under RSA 485-C.
7. Specifically, NCES failed to prepare and use, on thirty (30) separate occasions, an 8-part prenumbered EPA/DOT uniform hazardous waste manifest, EPA Form 8700-22, as specified in Env-Wm 510.01(a). Env-C 612.04(a) authorizes a fine of \$2,000 per shipment, for a total potential penalty of \$60,000 for this violation. For settlement purposes only, the Division is seeking a penalty of \$2,000.
8. Specifically, NCES failed to use a transporter, on eleven (11) separate occasions, that has obtained an EPA Identification Number, as specified in Env-Wm 511.01(a). Env-C 612.04(c) authorizes a fine of \$2,000 per load offered, for a total potential penalty of \$22,000. For settlement purposes only, the Division is seeking a penalty of \$2,000.

9. Specifically, NCES failed to deliver its leachate that is regulated as a New Hampshire hazardous waste mixture to an authorized facility on six (6) separate occasions, as specified in Env-Wm 511.01(b). Env-C 612.04(d) authorizes a fine of \$2,000 per load delivered to an unauthorized facility, for a total potential penalty of \$12,000. Due to the serious consequences of delivering hazardous waste to an unauthorized facility, the Division is seeking the full \$12,000 even in settlement.

10. Specifically, NCES failed to notify the Division within ten (10) days of detecting concentrations of volatile organic compounds in a detection monitoring well above background values, as specified in Env-Wm 1403.21(c)(1). Env-C 610 authorizes the Division to calculate the amount of the administrative fine sought for this violation. The total penalty has been calculated to be \$1,000.

11. The total fine of \$17,000 shall be due and payable upon execution of this Agreement by NCES.

12. All funds will be deposited in the Hazardous Waste Cleanup Fund. Payment shall be by check made payable to Treasurer State of NH and shall be mailed to:

Jim Ballentine, Enforcement Paralegal
Office of the Commissioner
Department of Environmental Services
P.O. Box 95
Concord, New Hampshire 03302-0095

13. The effective date of this agreement shall be the date on which it has been signed by an authorized representative of NCES and the Director of the Waste Management Division and accepted by the Commissioner of DES. After that date, this agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment shall become effective on the date on which it has been accepted by the Commissioner.

14. By entering this Agreement, NCES waives its right to a hearing on the proposed administrative fines set forth in Paragraphs 6-11.

15. No failure by DES to enforce any provision of this agreement after any breach or default shall be deemed a waiver of its rights with regard to that breach or default, nor shall such failure be construed as a waiver of the right to enforce each and all of the provisions of this agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this settlement by granting this Motion.

Respectfully submitted,

7/25/00
Date

Larry B. Lackey

Mr. Larry B. Lackey, Vice President
North Country Environmental Services, Inc.

7/31/00
Date

Philip J. O'Brien

Philip J. O'Brien, Ph.D., Director
Waste Management Division

This Motion to Accept Settlement Agreement is granted this 31st day of July, 2000.

Robert W. Varney / GDB
Robert W. Varney, Commissioner
Department of Environmental Services