



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

August 3, 2004

Pinetree Power – Tamworth, Inc.
Attn: Russell F. Dowd, Plant Manager
Route 41
PO Box 233
West Ossipee, NH 03890

Re: Settlement Agreement for Administrative Fine Docket No. AF 04-008

Dear Mr. Dowd:

Enclosed for your records is a copy of the Motion to Accept Settlement Agreement in the above-captioned matter executed by Robert R. Scott, Air Resources Division Director, and accepted by Commissioner Michael P. Nolin on August 2, 2004.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

Michael Schafani,
Legal Assistant

cc: Robert R. Scott, Director, Air Resources Division
Gretchen R. Hamel, Administrator DES Legal Unit
Ray Walters, DES ARD
Public Information Officer, DES PIP
Town of Ossipee, Board of Selectmen
R. Kurowski, EPA Region I
J. Henslee, Tractbel Power, Inc., Houston, TZ

Pinetree Power – Tamworth, Inc.
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ADMINISTRATIVE FINE
No. AF 04-008

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Air Resources Division (“the Division”) ⁸ and Pinetree Power – Tamworth, Inc. (“Pinetree”), parties to the above-captioned matter, and stipulate to the following:

1. RSA 125-C authorizes the Department of Environmental Services (“DES”) to regulate sources of air pollution in the State of New Hampshire. RSA 125-C:4 authorizes the Commissioner of DES to adopt rules relative to the prevention, control, abatement, and limitation of air pollution in New Hampshire. Pursuant to this authority, DES has adopted NH Admin. Rules Env-A 100 *et seq.*
2. RSA 125-C:15,I-b(b), authorizes the Commissioner to impose administrative fines of up to \$2,000 per offense for violations of RSA 125-C and rules adopted pursuant thereto.
3. Pinetree operates a wood-fired, 25 megawatt electric power generation plant, located on Route 41 in West Ossipee, NH.
4. On April 8, 2004, the Division issued Notice of Proposed Administrative Fine and Hearing No. AF 04-008 (“the Notice”) to Pinetree, seeking a fine of \$1,000 for violation of Condition X.F.8 of Title V Permit No. TV-OP-018 (“the Permit”).
5. Specifically, the Notice cited Pinetree for violating the Permit by failing to submit the annual compliance certification for calendar year 2002 to the Division by April 15, 2003. Pursuant to RSA 125-C:15, I-b(b), the Division sought a fine of \$1,000 for this violation.
6. In order to settle this matter, the Division and Pinetree have agreed to the terms of this Settlement Agreement (“Agreement”), as set forth herein.
7. Of the proposed fine, \$100 will be waived.
8. Pinetree agrees to pay the remaining \$900 upon execution of this Agreement by Pinetree.
9. Payment under Paragraph # 8 shall be paid by certified check made payable to: “Treasurer, State of New Hampshire” and mailed to:

Michael Sclafani, Legal Assistant
Department of Environmental Services ~ Legal Unit
29 Hazen Drive, P.O. Box 95
Concord, NH 03302-0095

10. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

11. The parties agree that full payment by Pinetree of the \$900 fine pursuant to the terms of this Agreement and acceptance thereof by the Division shall constitute a full and final resolution of all matters related to the violations alleged in Paragraphs IV.1 through IV.4 of the Notice, and that, except as otherwise set forth herein, Pinetree shall have no further obligation or liability with respect to such violations or any other matter raised in Paragraphs IV.1 through IV.4 in the Notice.

12. By executing this Agreement, Pinetree waives its right to a hearing on or any appeal of the administrative fines set forth in the Notice; and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

13. The effective date of this Agreement will be the date on which it is signed by an authorized representative of Pinetree, the Director of the Division, and 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 will become effective on the date on which it has been accepted by the Commissioner.

14. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and every provision of this Agreement on any further breach or default.

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

7/27/04
Date

Respectfully submitted,
Pinetree Power ~~Tamworth~~, Inc.

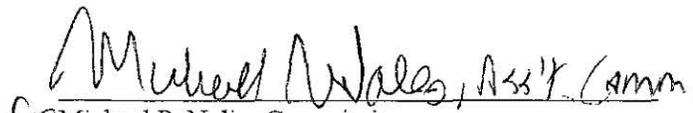

By:
Duly Authorized (Russell F. Dowd)

DES Air Resources Division

7/27/04
Date


Robert R. Scott, Director

This Motion to Accept Settlement agreement is granted this 2nd day of Aug., 2004.


for Michael P. Nolin, Commissioner
Department of Environmental Services