UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CONSERVATION LAW FOUNDATION, INC. and HEALTHLINK, INC. Plaintiffs v. DOMINION ENERGY NEW ENGLAND, INC. Defendant.	Case No.: 1:10-cv-11069

CONSENT DECREE

1. Whereas, in a Complaint filed on June 24, 2010, Conservation Law Foundation ("CLF") and HealthLink, Inc. ("HealthLink"), allege that Defendant Dominion Energy New England, Inc. ("DENE" or "Defendant") violated the Clean Air Act, 42 U.S.C. §§ 7401-7671q ("CAA");
2. Whereas, the Complaint alleges, among other things, violations of visible emissions/opacity limitations and monitoring requirements in the Massachusetts regulations, the Massachusetts State Implementation Plan under the Clean Air Act, and in the Title V and other state operating permits;
3. Whereas, on April 20, 2010 Plaintiffs served a notice of intent to sue pursuant to 42 U.S.C. § 7604(b)(1)(a) and 40 C.F.R. § 54, that alleged, among other things, 317

violations of opacity standards from 2005-2010 and violations of opacity monitoring requirements at Salem Harbor Station in Salem, Massachusetts;

4. Whereas, Defendant denies the allegations of CLF and HealthLink and denies that it has violated the CAA or any visible emissions/opacity limitations, standards or monitoring requirements;
5. Whereas, Dominion Energy Salem Harbor, L.L.C. ("DESH") is owner of Salem Harbor Station and is joining in the Parties' agreement to resolve all of Plaintiffs' claims;
6. Whereas, the Parties (including DESH), have negotiated in good faith and have reached a settlement of the issues raised in the notice of intent to sue and the Complaint;
7. Therefore, the Parties (including DESH) agree, and the Court finds, that settlement of the claims alleged in the Complaint without further litigation or trial of any issues is fair, reasonable, and in the public interest.

Jurisdiction and Venue

8. This Court has subject matter jurisdiction under Section 304(a) of the CAA, 42 U.S.C. § 7604(a), and 28 U.S.C. §§ 1331, 2201, and 2202.
9. Venue is appropriate in the District Court of Massachusetts under Section 304(c)(1) of the CAA, 42 U.S.C. § 7604(c)(1), and 28 U.S.C. § 1391(b)(2) because the facility is located in the district.

Applicability

10. The provisions of this Consent Decree shall apply to and be binding upon the Parties (including DESH) and their respective officers, directors, shareholders, successors, affiliates, heirs and assigns. In the event that DENE and/or DESH proposes to sell or transfer their interests in Salem Harbor Station before the termination of this Consent Decree, they shall advise the proposed purchaser or successor-in-interest of the existence

of this Consent Decree, and shall condition the sale or transfer on the purchaser's or successor-in-interest's agreement to be substituted as a party to this Consent Decree in place of DENE and DESH. Provided that the purchaser or successor-in-interest assumes all of DENE's and DESH's obligations under this Consent Decree and becomes a party to it, DENE and DESH shall be relieved of any further obligations under the Consent Decree and shall be removed as a party to it.

11. No later than ten (10) days after such sale or transfer, Defendant shall provide written notice of the sale or transfer to the Plaintiffs.

Definitions

12. For the purposes of this Consent Decree, the following terms shall have the following meanings:

13. "Clean Air Act" or "Act" means the federal Clean Air Act, 42 U.S.C. §§ 7401-7671q, and its implementing regulations.

14. "Consent Decree" or "Decree" means this Consent Decree.

15. "Date of Entry" means the date this Consent Decree is approved or signed by the United States District Court Judge.

16. "Date of Lodging" means the date that this Consent Decree was filed for lodging with the Clerk of the Court for the United States District Court for the District of Massachusetts, Boston Division.

17. "Day" means calendar day unless otherwise specified in this Consent Decree.

18. "DENE" means Dominion Energy New England, Inc. and its officers, directors, successors, heirs and assigns;

19. "DESH" means Dominion Energy Salem Harbor, L.L.C., and its officers, directors, successors, heirs, and assigns.

20. Equipment means all equipment on site as of the date of this Consent Decree, including but not limited to coal pulverizers, stationary equipment that feeds fuel to a boiler, boilers that produce steam for a steam turbine, steam turbines, generators, ancillary equipment, and any other equipment used to operate a generator, steam turbine or boiler.
21. "Parties" means the Plaintiffs, DENE, and DESH. "Party" means one of the Parties.
22. "Plaintiffs" means Conservation Law Foundation and HealthLink and their respective officers, directors, successors, affiliates, heirs and assigns.
23. "Remove from service" means that the Unit shall cease to generate electricity to supply the power grid (except as provided in Paragraphs 26(c) and 27 below).
24. "Salem Harbor Station" means the three (3) coal units and one (1) oil unit currently owned by DESH and operated by DENE and described in the Title V permit issued for Salem Harbor Station in response to Application No. MBR-95-OPP-025.
25. "Unit" means collectively, the coal pulverizers (if applicable), stationary equipment that feeds fuel to the boiler, the boiler that produces steam for the steam turbine, the steam turbine, the generator, the equipment necessary to operate the generator, steam turbine and boiler, and all ancillary equipment, including pollution control equipment.

Agreed Actions

26. Shutdown of Salem Harbor Station.
    a. DENE, DESH, or any purchaser or successor, agrees to remove from service Units 1 and 2 no later than December 31, 2011, and to remove from service Units 3 and 4 no later than June 1, 2014. Thereafter, neither DENE, DESH, nor any successor or purchaser of Salem Harbor Station shall operate any electric generating unit on the site, except that DENE, DESH, or any successor or purchaser may re-power the Unit(s) as provided in Paragraph 27.

b. DENE or DESH shall notify the United States Environmental Protection Agency and Massachusetts DEP of each Unit's removal from service as follows:

1. for Units 1 and 2, no later than January 15, 2012; and
2. for Units 3 and 4, no later than June 15, 2014.

c. Nothing herein shall prevent DENE, DESH, or any successor or purchaser of Salem Harbor Station (i) from reusing any Equipment from Salem Harbor Station at any other existing Unit or new emissions unit at the Salem Harbor Station or at another facility, provided that they apply for, and obtain, all required permits, if any, or (ii) from selling any Equipment.

27. DENE and DESH agree not to re-power or construct an electric generating unit on the site fueled by coal. Notwithstanding any other provisions of this Consent Decree, DENE, DESH, or a purchaser or successor of Salem Harbor Station may, however, seek to re-power Salem Harbor Station or construct a new electric generating unit not fueled by coal. If DENE, DESH, or such purchaser or successor seeks to re-power Salem Harbor Station, it shall apply for all necessary approvals and permits, whether by amending existing approvals and permits or seeking new approvals and permits. Nothing in this Consent Decree shall prevent or limit in any way the Plaintiffs' rights to oppose the issuance of any approvals or permits, or amendments to any such approvals or permits.

Supplemental Environmental Project

28. In order to secure significant environmental and public health benefits, protection and improvement, DENE shall provide funding for a supplemental environmental project ("SEP") that goes beyond what is required by the Clean Air Act and the Massachusetts Air Pollution Control regulations. DENE shall expend no less than Two Hundred

Seventy-Five Thousand Dollars ($275,000) towards completing the requirements of the SEP, as described below.

29. Within 120 days of the entry of this Consent Decree, DENE shall submit a Plan for a proposed SEP to Plaintiffs for review and approval. Such approval shall not be unreasonably withheld. The SEP shall include one or more of the following types of projects to be implemented in Salem and at least two of the adjacent cities and towns, including, but not limited to Beverly, Manchester-by-the-Sea and Marblehead, which are geared towards improving air quality and reducing demand for energy in the region:

    a. A project to fund the installation of solar panels or wind turbines on or at municipal buildings, state buildings, schools or low-income or affordable housing developments;

    b. A project to fund energy efficiency and demand response programs in municipal buildings, state buildings, schools or low-income or affordable housing developments;

    c. A project to purchase electric, hybrid, compressed natural gas or other alternative fuel vehicles to replace existing municipal or school vehicle fleets as well as the planning, design and construction of electric car charging stations;

    d. A project to secure LEED certification for a new senior center being built in Salem, provided that the SEP funding is directly related to reductions in air emissions or energy efficiency.

30. DENE shall retain a third party that is not affiliated with any Party ("project administrator") to manage or administer a SEP project.

31. In addition, the project administrator where possible, may hire local or Massachusetts-based contractors and businesses to complete the SEP. DENE and the project administrator may engage energy efficiency companies and/or collaborate with Massachusetts utility energy efficiency program administrators, to develop and complete the SEP.
32. DENE may elect to undertake a SEP project(s) by providing funds to a State or any instrumentality thereof as long as the State or instrumentality agrees to expend the funds on the SEP agreed upon by Plaintiffs and DENE and agrees to meet the reporting requirements contained herein.
33. DENE may elect to undertake a SEP project(s) by providing funds to an individual, non-profit corporation, or other entity with prior written approval by Plaintiffs.
34. DENE shall work with Plaintiffs to reach an agreement regarding the proposed SEP, the selection of an administrator for the SEP project(s) pursuant to paragraphs 30-33 hereof, and shall set a timeline for commencing the SEP project(s) no later than six (6) months from the Date of Entry of this Consent Decree.
35. All $275,000 shall be expended no later than three (3) years from the Date of Entry of this Consent Decree. Funds transferred by DENE to another person or instrumentality consistent with paragraphs 29-33 are considered expended.
36. DENE shall certify, as part of the Plan submitted to Plaintiffs for any SEP Project that it is not otherwise required by law, and is unaware of any other person that is required by law, to perform the SEP Project described in the Plan.

37. DENE shall use good faith efforts to secure as much benefit as possible for the SEP Dollars expended, consistent with the applicable requirements and limits of this Consent Decree.

38. DENE shall not financially benefit to a greater extent than any other member of the general public from the sale or transfer of technology obtained in the course of implementing the SEP.

39. DENE shall not issue any press release nor run any advertisements regarding any SEP project unless they include the following language, "This project was undertaken in connection with the settlement of an action under the Clean Air Act by Conservation Law Foundation and HealthLink."

Reporting and Recordkeeping Requirements

40. DENE or DESH shall provide Plaintiffs with copies of the removal from service notice sent to the Massachusetts DEP and the U.S. EPA within ten (10) days of sending notice, as provided in Paragraph 26(b).

41. From the Date of Entry of this Consent Decree, DENE or DESH shall provide Plaintiffs with copies of all quarterly excess emissions reports and any reports of upsets, malfunctions and or emergencies related to opacity/visible emissions or monitoring of opacity/visible emissions submitted to the Massachusetts DEP within ten (10) days of submission.

42. Within one (1) year of the date of entry of the Consent Decree, and every six (6) months thereafter until the SEP(s) has been completed, DENE shall submit to Plaintiffs a report ("SEP Status Report") describing how the SEP was performed and completed during that period. The SEP status report shall, at a minimum, include the amount of SEP Dollars

spent, the person or instrumentality responsible for carrying out the SEP project(s), the objective of the SEP project(s), the status of the SEP project(s), the expected environmental and public health benefits and energy reductions or benefits expected to result from the SEP project(s).

43. The person or instrumentality that will carry out the SEP project must in writing: (a) identify its legal authority for accepting such funding; and (b) identify its legal authority to conduct the project for which DENE contributes the funds. DENE acknowledges that it will receive credit for the expenditure of such funds as SEP Dollars only if DENE demonstrates that the funds have been actually spent by the person or instrumentality receiving them (or, in the case of internal costs, have actually been incurred by DENE), and that such expenditures met all requirements of this Consent Decree.

44. Within sixty (60) days following the completion of each SEP project required under this Consent Decree, DENE shall submit to Plaintiffs a report that documents the date that the SEP project was completed, DENE's results of implementing the SEP project, and the SEP Dollars expended by DENE in implementing the SEP project.

SEP Enhancement Funds

45. In lieu of penalties, DENE shall add to the amount expended for the SEP in paragraph 28 as set forth below:

    a. Removal from Service of Units 1-4. For each day beyond the deadlines identified in Paragraph 26(a)-(b):

SEP Enhancement Amount Per Day Beyond Deadline	**Period of Noncompliance**
$5,000	1st day through 15th day
$15,000	16th through 30th day

$32,500	31st day and beyond

b. Compliance with Visible Emissions/Opacity Limitations. For each one minute average period during which opacity measured by Continuous Opacity Monitors (COMS), or in the event of a COMS malfunction U.S. EPA Method 9, exceeds the opacity standard identified for Units 1, 2, 3, or 4 in Table 3 of the Title V permit issued December 14, 2009:

≥ 20 % but < 40 %	**≥ 40 %**	**SEP Enhancement Amount Per One Minute Exceedance**
1st-10th exceedance per quarter	1st -5th exceedance per quarter	$500
11th-30th exceedance per quarter	6th – 10th exceedance per quarter	$1,000
31st and beyond exceedance per quarter	11th and beyond exceedance per quarter	$2,000

46. Payment of any SEP enhancement funds shall not excuse DENE from implementing remedial actions or taking any other action required by this Consent Decree.

47. Within thirty (30) days of written demand from Plaintiffs, any SEP enhancement funds shall be added to the funds set aside for implementation of the SEP. DENE shall notify Plaintiffs which project will receive the additional funding and shall include information about the expenditure of such additional funding in status reports required under paragraph 42.

General Provisions

48. Petition for Stay: Within ten (10) days of execution of this Consent Decree, the Parties shall jointly petition the Court for a stay of proceedings in this matter based upon a settlement having been reached. In their petition, the parties shall explain their intention

to have this Consent Decree entered as an order of the Court following expiration of the 45-day period described in the next paragraph.

49. Government Comment or Intervention; Entry: Within ten (10) days of execution of this Consent Decree, Plaintiffs shall serve this Consent Decree on the Attorney General of the United States and the Administrator of the U.S. EPA. If the United States does not comment or intervene within forty-five (45) days of receipt, the parties shall submit this Consent Decree to the Court together with a joint motion for its entry as an Order of this Court. If the United States comments or intervenes in this proceeding, the parties will work together and with the United States to determine whether this matter can still be resolved without further litigation. At any time following comment or intervention by the United States, one or more of the parties may petition the Court to lift the stay of proceedings.

50. Costs of Litigation: Under 42 U.S.C. § 7604(d), the Court, in issuing any final order in a citizen suit under the Clean Air Act, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the Court determines such award is appropriate. In settlement of the Plaintiffs' costs of litigation in this proceeding, Defendant agrees to pay CLF the amount of $100,000. Payment of the amount of $100,000 shall be made no later than thirty (30) days after the Date of Entry of this Consent Decree. If Defendant fails to pay and transfer the full agreed amount under this Paragraph, CLF may file a motion for fees and costs with the Court and may seek its full fees and costs in this proceeding up to and including this motion.

51. Continuing Jurisdiction: The Court shall retain jurisdiction of this case after the Date of Entry of this Consent Decree to enforce compliance with the terms and conditions of this

Consent Decree and to take any action necessary or appropriate for its interpretation, construction, execution, or modification. DESH consents to the jurisdiction of this Court for purposes of enforcing or taking any action under the Consent Decree. During the term of this Consent Decree, any party, including DESH, may apply to the Court for any relief necessary to construe or effectuate this Consent Decree.

52. Entire Agreement: This Consent Decree represents the entire agreement between the parties. Prior drafts of this Consent Decree and related term sheets shall not be used in any action involving interpretation or enforcement of this Consent Decree.

53. Non-Severability Absent Re-Adoption by the Parties. This Consent Decree shall constitute a binding agreement among the Parties, including DESH. If for any reason the Court should decline to approve the proposed Consent Decree on any ground except one related to form, this Consent Decree is voidable at the option of any party to this Consent Decree within fourteen (14) days of the Court's decision. If for any reason the Court should determine prior to entry of the proposed Consent Decree that substantive modifications are necessary prior to approving the proposed Consent Decree, the Parties, including DESH, shall enter into good faith negotiations to discuss the modifications, and this Consent Decree shall be void unless the Parties, including DESH, agree otherwise within fourteen (14) days of the Court's determination.

54. Modification: This Consent Decree may be modified by written agreement of the Parties, including DESH, which modification shall be promptly filed with the Court.

55. Termination: This Consent Decree shall terminate upon fulfillment of the removal from service requirements set forth in Paragraph 26, the expenditure of all SEP funds, and the final report on the results of the SEP projects. At such time, any party may provide

notice of termination of this Consent Decree to the Court and to the other parties. This Consent Decree shall terminate thirty (30) days after such notice unless (a) objections are filed with the Court by the non-noticing party or (b) otherwise ordered by the Court.

56. Dismissal with Prejudice: In consideration of Defendant's obligations under this Consent Decree, Plaintiffs agree that the claims in Counts I-VI of the Complaint shall be dismissed with prejudice. Plaintiffs agree that the dismissal with prejudice will apply to and protect DESH as if DESH had been a defendant against whom the claims were made in the Complaint. Nothing in this Consent Decree shall be construed as admission by DENE or DESH of any liability for the claims or facts alleged.

57. Notices: whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing and addressed as follows:

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Dominion Energy Salem Harbor, L.L.C.
c/o Vice President - Fossil & Hydro
Merchant Operations
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Glen Allen, Virginia 23060

58. Covenant Not To Sue: Plaintiffs covenant not to sue DENE or DESH, or their affiliates, parents, subsidiaries or officers, directors, shareholders, representatives, assigns, successors or purchasers of any interest in Salem Harbor Station for any opacity or visible emissions exceedance at any Salem Harbor Station Unit occurring before

termination of this Consent Decree; provided, however, that this covenant not to sue shall not apply to any action to enforce this Consent Decree.

59. Certification: The undersigned representatives of each party certify that they are authorized by the party they represent to consent to this Consent Decree.

CONSERVATION LAW FOUNDATION, INC.

By _____
John Kassel, President

HEALTHLINK, INC.

By Martha Dansdill
Martha Dansdill, Executive Director

DOMINION ENERGY NEW ENGLAND, INC.

By KB Curtis
Katheryn B. Curtis, Vice President

DOMINION ENERGY SALEM HARBOR, L.L.C.

By KB Curtis
Katheryn B. Curtis, Vice President