

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Lisa Thurt 9/27/13  
Name of Case Attorney Date

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

Case Docket Number DWA-01-2013-0008

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:

Hickory Beech Realty Trust  
73 Harbor Street  
Manchester, MA 01944

Total Dollar Amount of Receivable \$ 12,850 Due Date: 10/26/13

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:

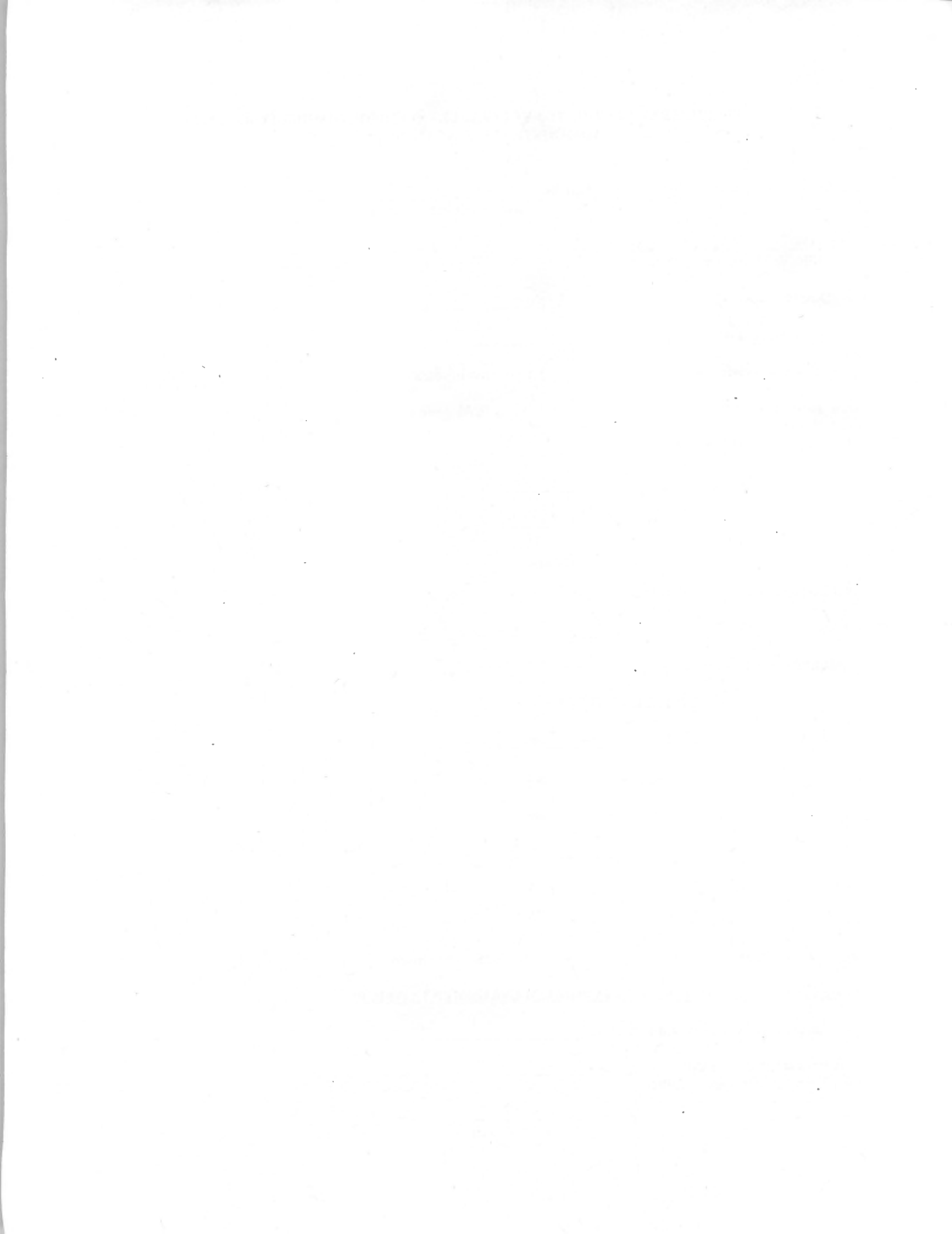
Copy of Check Received by RHC \_\_\_\_\_ Notice Sent to Finance \_\_\_\_\_

**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**

Region 1  
5 Post Office Square, Suite 100 (Mail Code: OES04-4)  
Boston, Massachusetts 02109-3912

RECEIVED

2013 SEP 26 P 1:43

**DELIVERED BY HAND**

September 26, 2013

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
5 Post Office Square - Suite 100  
Mail Code: ORA18-1  
Boston, MA 02109-3912

EPA ORC  
OFFICE OF  
REGIONAL HEARING CLERK

Re: In the Matter of: Hickory Beech Realty Trust  
Docket No. CWA-01-2013-0008

Dear Ms. Santiago:

Enclosed please find the original and one copy of a Consent Agreement and Final Order ("CAFO") settling the above-captioned case. The CAFO has been signed by the parties and approved by the Regional Judicial Officer.

Sincerely,

A handwritten signature in blue ink, appearing to read "L Thuot".

Lisa Thuot  
Compliance Inspector/Environmental Scientist  
U.S. EPA, Region 1

cc: Joseph Falzone

Enclosure

RECEIVED  
MAY 19 1903

In the Matter of: Hickory Beech Realty Trust  
CWA-01-2013-0008

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Agreement and Final Order was sent to the following persons, in the manner specified, on the date below:

Original and one copy,  
hand-delivered to:

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
5 Post Office Square - Suite 100  
Mail Code: ORA18-1  
Boston, MA 02109-3912


Copy by Registered Mail to:

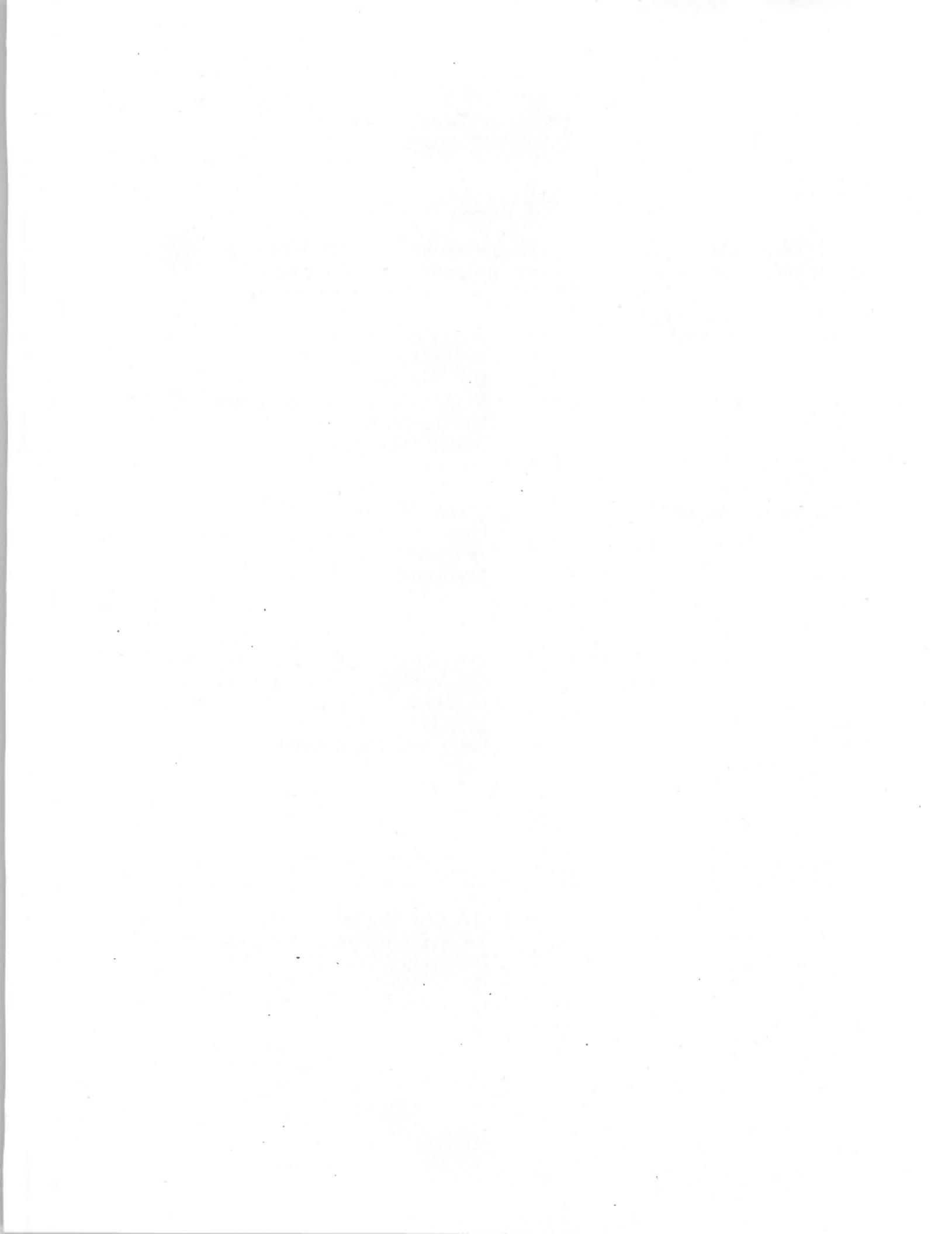
Joseph Falzone  
Investments in Land  
7B Emery Lane  
Stratham, NH 03885

Copy by First Class Mail to:

Eric Worrall, Acting Regional Director  
MA Dept. of Environmental Protection  
Northeast Regional Office  
205B Lowell Street  
Wilmington, MA 01887

Dated: 9/26/13

  
\_\_\_\_\_  
Lisa Thuot  
U.S. EPA, Region 1  
5 Post Office Square - Suite 100  
Mail Code: OES04-4  
Boston, MA 02109-3912  
(617) 918-8366





**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**Region 1, 5 Post Office Square, Suite 100  
(Mail Code: 0ES04-4)  
Boston, Massachusetts 02109-3912**

**EXPEDITED SETTLEMENT AGREEMENT  
Docket Number: CWA-01-2013-0008**

Hickory Beech Realty Trust ("Respondent") is a "person," within the meaning of Section 502(5) of the Clean Water Act ("Act"), 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

Attached is an "Expedited Settlement Offer Deficiencies Form" ("Form"), which is incorporated by reference. By its signature, Complainant ("EPA") finds that Respondent is responsible for the deficiencies specified in the Form.

Respondent had an unauthorized discharge of storm water in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311, and/or failed to comply with its National Pollutant Discharge Elimination System ("NPDES") storm water permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

EPA finds, and Respondent admits, that Respondent is subject to Section 301(a) of the Act, 33 U.S.C. § 1311, and that EPA has jurisdiction over any "person" who "discharges pollutants" from a "point source" to "waters of the United States." Respondent neither admits nor denies the deficiencies specified in the Form.

EPA is authorized to enter into this Consent Agreement and Final Order ("Agreement") under the authority vested in the Administrator of EPA by Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and by 40 C.F.R. § 22.13(b). The parties enter into this Agreement in order to settle the civil violation(s) alleged in this Agreement for a penalty of \$12,850. Respondent consents to the assessment of this penalty, and waives the right to: (1) contest the finding(s) specified in the Form; (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2); and (3) appeal pursuant to Section 309(g)(8), 33 U.S.C. § 1319(g)(8).

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that any deficiencies identified in the Form have been corrected. Respondent shall submit a written report with this Agreement detailing the specific actions taken to correct the violations cited herein.

Within 10 days of the effective date of this Agreement, Respondent shall submit a bank, cashiers, or certified check, with case name and docket number noted, for the amount specified above, payable to the "Treasurer, United States of America," via certified mail, to: U.S. EPA, Fines and Penalties, In the Matter of: Hickory Beech Realty Trust, Docket No. CWA-01-2013-0008, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000

This Agreement settles EPA's civil penalty claims against Respondent for the Clean Water Act violation(s) specified in this Agreement. EPA does not waive its rights to take any enforcement action against Respondent for any other past, present, or future civil or criminal violation of the Act or of any other federal statute or regulation. EPA does not waive its right to issue a compliance order for any uncorrected deficiencies or violation(s) described in the Form. EPA has determined this Agreement to be appropriate.

This Agreement is binding on the parties signing below and final thirty (30) days from the date it is signed by the Regional Judicial Officer unless a petition to set aside the Order is filed by a commenter pursuant to Section 309(g)(4)(C) of the CWA, 33 U.S.C. 1319(g)(4)(C), following public noticing of this settlement.

APPROVED BY EPA:

Joanna Jerison Date: 8/14/13  
Joanna Jerison  
Legal Enforcement Manager  
Office of Environmental Stewardship

APPROVED BY RESPONDENT:

Name (print): JOSEPH FALZONE  
Title (print): AGENT  
Signature: Joseph Falzone Date: 8-1-2013

More than 40 days have elapsed since the public notice required by Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and EPA has received no public comments concerning this matter.

IT IS SO ORDERED:

LeAnn Jensen Date: 8/26/13  
LeAnn Jensen  
Acting Regional Judicial Officer

RECEIVED  
2013 SEP 26 P 1:43  
EPA/RC  
OFFICE OF  
REGIONAL JUDICIAL CLERK

RECEIVED  
4/1/03

*[Handwritten signature]*

*[Faint, illegible text throughout the page, likely bleed-through from the reverse side]*



**Expedited Settlement Offer Worksheet**  
**Deficiencies Form**  
 Consult instructions regarding eligibility criteria  
 and procedures prior to use

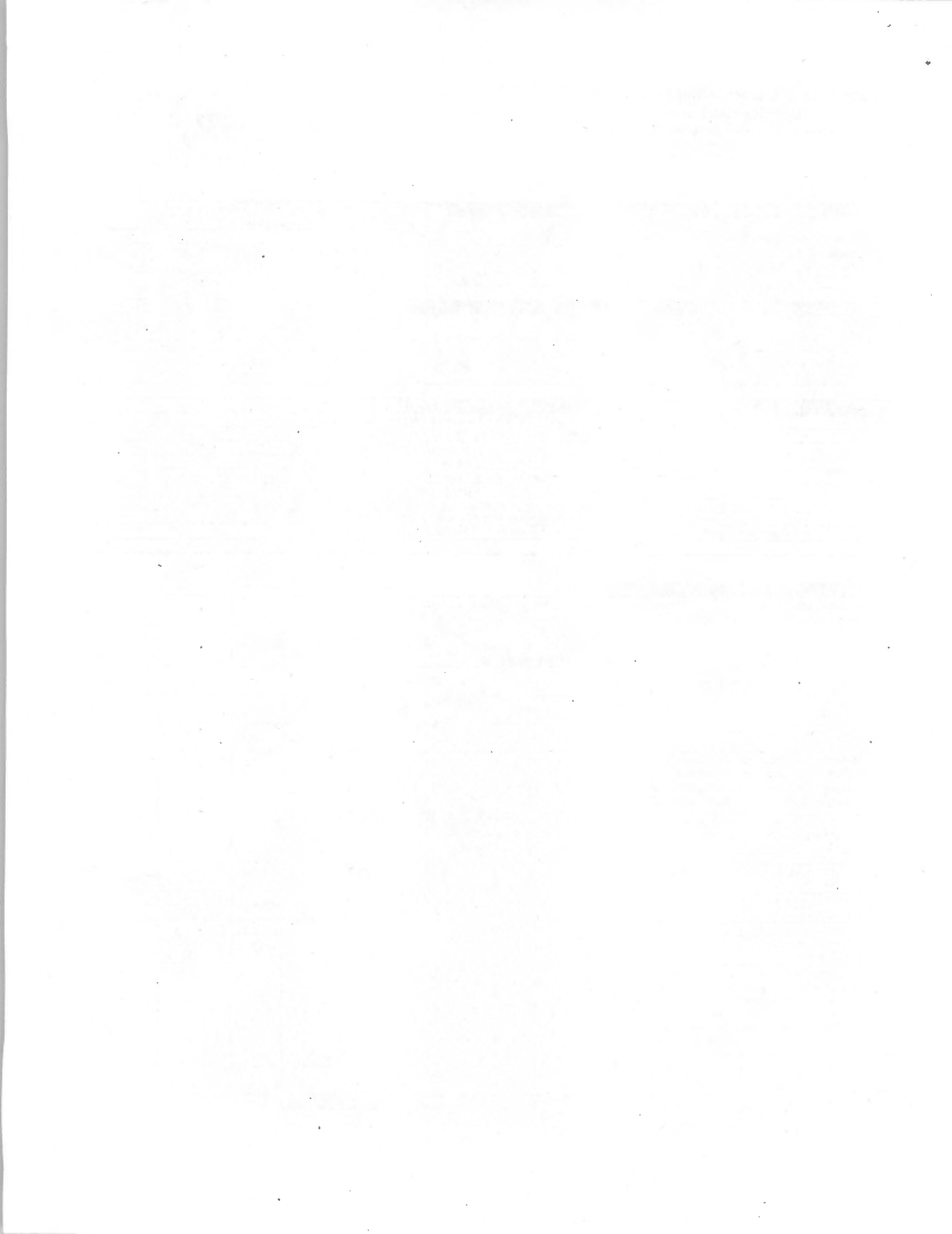


version 10.3.4

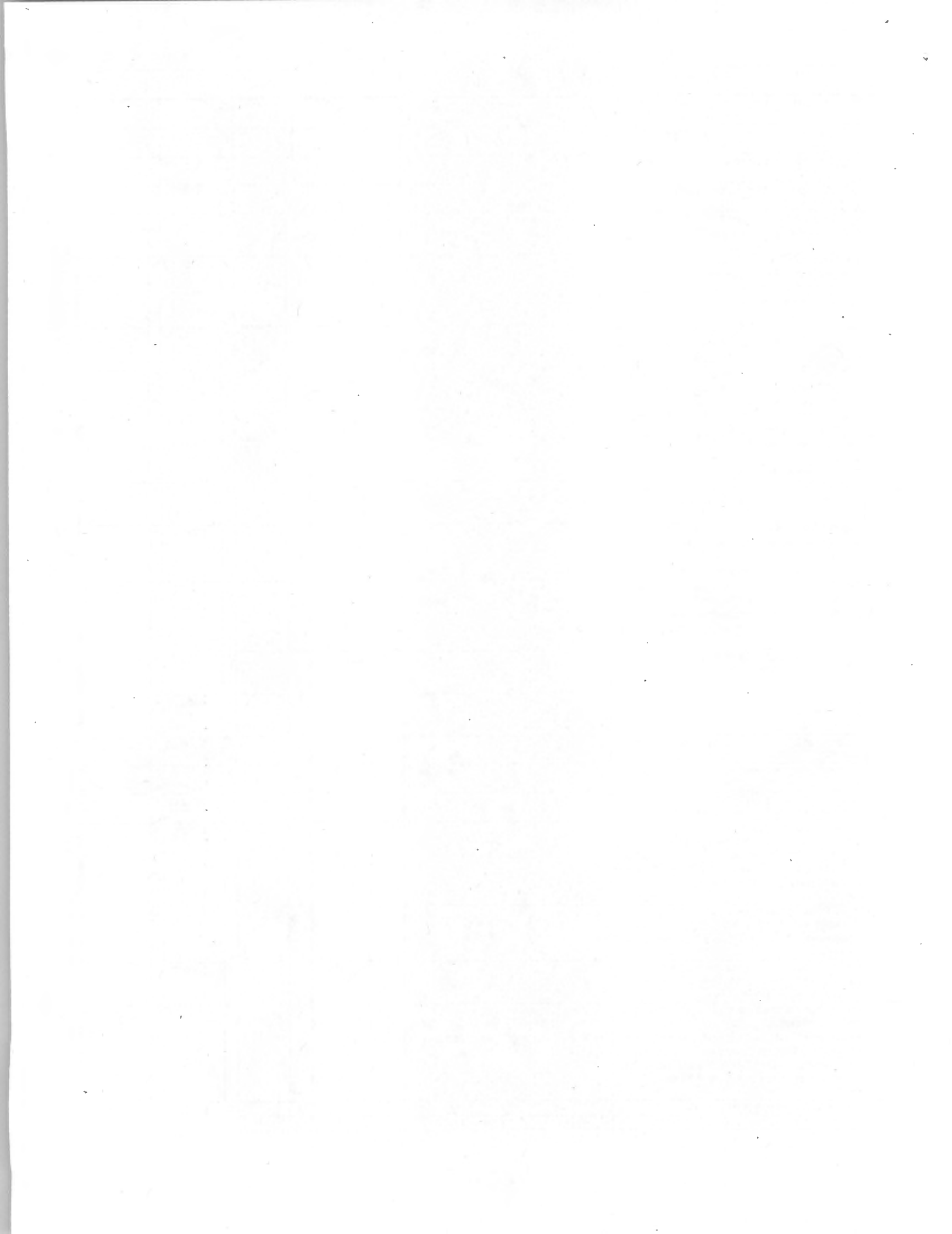
<b>LEGAL NAME AND MAILING ADDRESS OF OPERATOR</b>		<b>Telephone Number</b>	<b>NPDES Permit Number</b>
1	Hickory Beech Realty Trust 73 Harbor Street Manchester, MA 01944 (603) 772-9400		MAR10C301
<b>LOCATION AND ADDRESS OF SITE</b>		Inspector Name:	Lisa Thuot / Erin Trainor
		Inspector Agency:	US EPA
		Entrance Interview Conducted:	Yes
		Exit Interview Conducted:	Yes
		Exit Interview given to:	Lawrence Beals, Joseph Falzone
		Exit Interview time:	12:55
		Date:	08/22/2012
		Note: Lawrence Beals, President, Beals and Associates, Inc. is the site environmental contractor hired by Hickory Beech Realty Trust to oversee environmental compliance.	

<b>FACILITY DESCRIPTION / CONTACT NAMES</b>	
Name of Site Contact (ESO Worksheet recipient): Joseph Falzone	
Name of Authorized Official (40 CFR 122.22): Joseph Falzone	
Inspection Date: 08/22/2012	
Start Construction Date: 05/15/2006	
Estimated Completion Construction Date:	
If Unpermitted, Number of Months Unpermitted: 3	
Name of Receiving Water Body (Indicate whether 303(d) listed): Wetlands associated with the Ipswich River	
Acres Currently Disturbed   Acres to be Disturbed in Whole Common Plan: 19.00	
Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)? No	

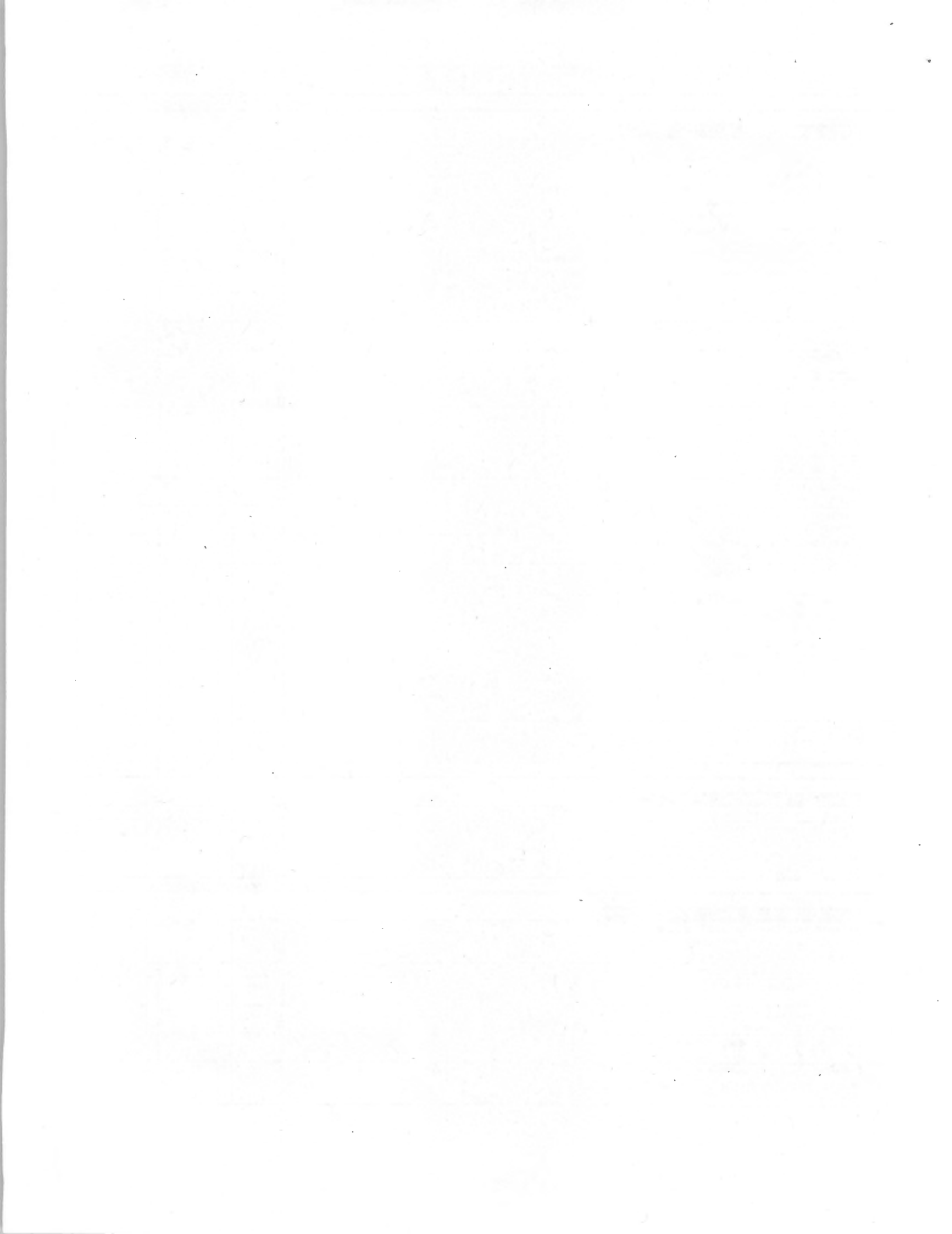
PERMIT COVERAGE	Findings	Citation Reference**	R C A*	No. of Deficiencies	Dollar Amount	Total
3 Operator unpermitted for 3 months (# months unpermitted equals number of violations)	Operator had coverage under the 2003 CGP, but did not obtain coverage under the 2012 CGP from 5/16/12 (NOI deadline for existing permittees) through 8/22/12 (EPA inspection).	CWA 301		3	\$500.00 =	\$1,500
<b>SWPPP REVIEW</b>						
4 SWPPP not prepared (If no SWPPP, leave elements 5 - 30 blank)				X	\$5,000.00 =	
5 SWPPP prepared but prepared after construction start (# of months = # of violations)				X	\$75.00 =	
6 SWPPP does not identify all potential sources of pollution to include: porta-pottys, fuel tanks, staging areas, waste containers, chemical storage areas, concrete cure, paints, solvents, etc...				X	\$250.00 =	
7 SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control	SWPPP doesn't state SW mgmt. plan or responsibilities for individual lot owners/developers on the site.	CGP 5.2 & 7.1.1		1	\$500.00 =	\$500
8 SWPPP does not have site description, as follows:						
A Nature of activity in description				X	\$100.00 =	
B Intended sequence of major activities				X	\$100.00 =	
C Total disturbed acreage				X	\$100.00 =	
D General location map				X	\$100.00 =	
E Site map				X	\$500.00 =	
F Site map does not show drainage patterns, slopes, areas of disturbance, locations of major controls, structural practices shown, stabilization practices, offsite materials, waste, borrow or equipment storage areas, surface waters, discharge points, areas of final stabilization (count each omission under 8F as 1 violation)				X	\$50.00 =	
G Location/description industrial activities, like concrete or asphalt batch plants				X	\$500.00 =	
9 SWPPP does not:						



	A Describe all pollution control measures (e.g. BMPs)				X	\$750.00	=	
	B Describe sequence for implementation				X	\$250.00	=	
	C Detail operator(s) responsible for implementation				X	\$250.00	=	
10	SWPPP does not describe interim stabilization practices				X	\$250.00	=	
11	SWPPP does not describe permanent stabilization practices				X	\$250.00	=	
12	SWPPP does not describe a schedule to implement stabilization practices	SWPPP is outdated; no dates for temporary cease of construction or stabilization.	CGP 5.3.B & 7.2.4	1	X	\$250.00	=	\$250
13	Following dates are not recorded: major grading activities; construction temporarily or permanently ceased; stabilization measures initiated (count each omission under 13 as 1 violation)				X	\$250.00	=	
14	SWPPP does not have description of structural practices to divert flows from exposed soils, retain flows, or limit runoff from exposed areas				X	\$500.00	=	
15	SWPPP does not have a description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur AFTER construction operations have been completed				X	\$500.00	=	
16	SWPPP does not describe measures to prevent discharge of solid materials to waters of the US, except as authorized by 404 permit				X	\$500.00	=	
17	SWPPP does not describe measures to minimize off-site vehicle tracking and generation of dust				X	\$500.00	=	
18	SWPPP does not include description of construction or waste materials expected to be stored on site w/updates re: controls used to reduce pollutants from these materials				X	\$250.00	=	
19	SWPPP does not have description of pollutant sources from areas other than construction (asphalt or concrete plants) w/ updates re: controls to reduce pollutants from these materials				X	\$500.00	=	
20	SWPPP does not identify allowable sources of non-storm water discharges listed in subpart 1.3.B of the CGP				X	\$500.00	=	
21	SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm water discharges				X	\$500.00	=	
22	Endangered Species Act documentation is not in SWPPP				X	\$500.00	=	
23	Historic Properties (Reserved)				X		=	
24	Copy of permit and/or NOI not in SWPPP (count each omission under 24 as 1 violation)				X	\$250.00	=	
25	SWPPP is not consistent with requirements specified in applicable sediment and erosion site plans or site permits, or storm water management plans or site permits approved by State, Tribal or local officials (e.g., MS4 requirements)				X	\$750.00	=	
26	SWPPP has not been updated to remain consistent with changes applicable to protecting surface waters in State, Tribal or local erosion plans				X	\$250.00	=	
27	Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates				X	\$500.00	=	
28	SWPPP has not been updated/modified to reflect change at site effecting discharge, or where inspections identify SWPPP/BMPs as ineffective, updates to SWPPP regarding modifications to BMPs not made within 7 days of such inspection (count each omission under under 28 as 1 violation)	Topsfield Conservation Commission noted site BMPs issues in March 2010 and August 2011. MADEP noted site BMP issues in March 2010.	CGP 5.10.B & 7.4.1.3	2	X	\$50.00	=	\$100
29	Copy of SWPPP not retained on site				X	\$500.00	=	
	A SWPPP not made available upon request				X	\$500.00	=	



30	SWPPP not signed/certified				X	\$500.00	=	
<b>Subtotal SWPPP Deficiencies</b>								<b>\$850</b>
<b>INSPECTIONS</b>								
31	Inspections not performed and documented either once every 7 days, or once every 14 days and within 24 hours after storm event greater than 0.5 inches or greater (not required if: temp stabilization; runoff unlikely due to winter conditions; construction during arid periods in arid areas) (Count each failure to inspect and document as one violation).	No stormwater site inspections from 2010-2012 (except for 3 annual SW reports for Topsfield Conservation Commission on 8/14/10, 4/6/11, and 6/5/12).	CGP 4		42	X	\$250.00	= \$10,500
	No inspections conducted and documented (if True, then leave elements 32-39 blank)	No stormwater site inspections from 2010-2012 (except for 3 annual SW reports for Topsfield Conservation Commission on 8/14/10, 4/6/11, and 6/5/12).	CGP 4				True or False	False
	Number of Inspections expected if performed every 7 days:							
	Number of Inspections expected if performed bi-weekly:							
	If known, number of days of rainfall of >0.5"							
32	Inspections not conducted by qualified personnel					X	\$50.00	=
33	All areas disturbed by construction activity or used for storage of materials and which exposed to precipitation not inspected					X	\$50.00	=
34	All pollution control measures not inspected to ensure proper operation					X	\$50.00	=
35	Discharge locations are not observed and inspected					X	\$50.00	=
36	For discharge locations that are not accessible, nearby locations are not inspected					X	\$50.00	=
37	Entrance/exit not inspected for off-site tracking					X	\$50.00	=
38	Site inspection report does not include: date, name and qualifications of inspector, weather information, location of sediment/pollutant discharge, BMP(s) requiring maintenance, BMP(s) that have failed, BMP(s) that are needed, corrective action required including changes/updates to SWPPP and schedule/dates (count each omission under 38 as 1 violation)					X	\$50.00	=
39	Inspection reports not properly signed/certified (count each failure to sign/certify as 1 violation)					X	\$50.00	=
<b>Subtotal Inspections Deficiencies</b>								<b>\$10,500</b>
<b>AVAILABILITY OF RECORDS</b>								
40	Sign/notice not posted					X	\$250.00	=
A	Does not contain copy of complete NOI					X	\$50.00	=
B	Location of SWPPP or contact person for scheduling viewing times where on-site location for SWPPP unavailable not noted on sign					X	\$50.00	=
<b>Subtotal Records Deficiencies</b>								<b>\$0</b>
<b>BEST MANAGEMENT PRACTICES</b>								
41	No velocity dissipation devices located at discharge locations or outfall channels to ensure non-erosive flow to receiving water					X	\$500.00	=
42	Control measures are not properly:							
A	Selected, installed and maintained					X	\$500.00	=
B	Maintenance not performed prior to next anticipated storm event (count each failure to select, install, maintain each BMP as one violation)					X	\$250.00	=
43	When sediment escapes the site, it is not removed at a frequency necessary to minimize off-site impacts					X	\$500.00	=



44	Litter, construction debris, and construction chemicals exposed to storm water are not prevented from becoming a pollutant source (e.g. screening outfalls, pickup daily, etc.)				X	\$500.00	=	
45	Stabilization measures are not initiated as soon as practicable on portions of the site where construction activities have temporarily or permanently ceased within 14 days after such cessation				X	\$500.00	=	
	*Exceptions:							
	(a) Snow or frozen ground conditions							
	(b) Activities will be resumed within 14 days							
	(c) Arid or Semi-arid areas (<20 inches per							
46	Common Drainage of 10+ acres does not have a sedimentation basin for the 2 year, 24 hour storm, or 3600 cubic ft. storage per acre drained				X	\$1,000.00	=	
	A Where sedimentation basin not attainable, smaller sediment basins, sediment traps, or erosion controls not implemented for downslope				X	\$1,000.00	=	
	B Sediment not removed from sediment basin or traps when design capacity reduced by 50% or more				X	\$500.00	=	
47	Common Drainage less than 10 acres does not have sediment traps, silt fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries (not required if sedimentation sediment basin meeting criteria in 46 above)				X	\$500.00	=	
	A Sediment not removed from sediment trap when design capacity reduced by 50% or more				X	\$500.00	=	
<b>Subtotal BMP Deficiencies</b>								<b>\$0</b>
<b>SMALL BUSINESS EVALUATION</b>								
48	Is the Owner/Operator a Small Business?							
	A <i>small business</i> is defined by EPA's Small Business Compliance Policy as: "a person, corporation, partnership, or other entity that employs 100 or fewer individuals (across all facilities and operations owned by the small business)." The number of employees should be considered as full-time equivalents on an annual basis, including contract employees (see 40 CFR 372.3). A full time employee unit is 2000 hours worked per year.							
<b>Total Expedited Settlement:</b>								<b>\$12,850</b>
<b>Notes:</b> * Requires Corrective Action ** EPA NPDES General Permit for Stormwater Discharges from Construction Activities, effective July 1, 2003 and EPA NPDES General Permit For Stormwater Discharges from Construction Activities, effective February 16, 2012: <a href="http://cfpub.epa.gov/npdes/stormwater/cgp.cfm">http://cfpub.epa.gov/npdes/stormwater/cgp.cfm</a>								

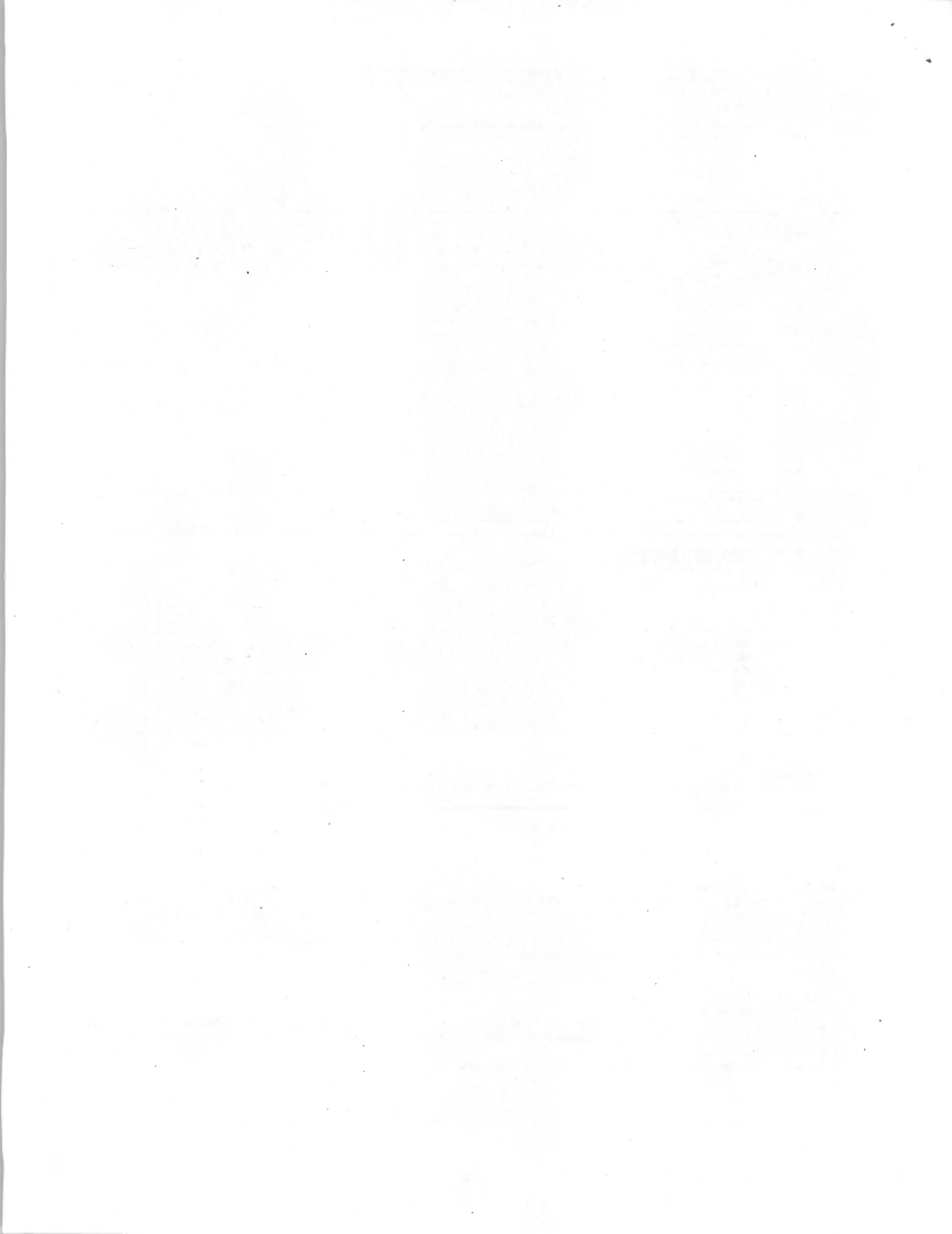
## Appendix A

### Stormwater Inspection Calculation Assumptions:

- 2008-2009: No construction activity occurred on site during 2008-2009, according to Site representatives. Did not include missed inspection during this time.
  - 2010: Assume inspections required at minimum once/14 days = 2x/month (Apr. - Nov.) = 17 inspections - 1 annual insp. on 8/14/10 = 16 missed inspections.
  - 2011: Assume inspections required at minimum once/14 days = 2x/month (Apr. - Oct.) = 17 inspections - 1 annual insp. on 4/6/11 = 16 missed inspections.
  - 2012: Assume inspections required at minimum once/14 days = 2x/month (Apr. - Aug.) = 11 inspections - 1 annual insp. on 6/5/12 = 10 missed inspections.
- Note: Missing inspection reports for 2012 were calculated up to the EPA inspection date.

### Abbreviations:

- SW = Stormwater
- NPDES = National Pollutant Discharge Elimination System
- 2003 CGP = 2003 Construction General Permit [EPA NPDES General Permit for Stormwater Discharges from Construction Activities, effective July 1, 2003]
- 2012 CGP = 2012 Construction General Permit [EPA NPDES General Permit for Stormwater Discharges from Construction Activities, effective Feb. 16, 2012]
- SWPPP = Stormwater Pollution Prevention Plan
- BMPs = Best Management Practices (i.e. erosion and stormwater management controls).





**Expedited Settlement Offer Worksheet  
Deficiencies Form**  
Consult instructions regarding eligibility criteria  
and procedures prior to use



version 10.3.4

<b>LEGAL NAME AND MAILING ADDRESS OF OPERATOR</b>		<b>Telephone Number</b>	<b>NPDES Permit Number</b>
1	Hickory Beech Realty Trust 73 Harbor Street Manchester, MA 01944 (603) 772-9400		MAR10C301
<b>LOCATION AND ADDRESS OF SITE</b>		<b>Inspector Name:</b>	Lisa Thuot / Erjn Trainor
2	Hickory Beech 120 High Street Topsfield, MA 01983	<b>Inspector Agency:</b>	US EPA
		<b>Entrance Interview Conducted:</b>	Yes
		<b>Exit Interview Conducted:</b>	Yes
		<b>Exit Interview given to:</b>	Lawrence Beals, Joseph Falzone
		<b>Exit Interview time:</b>	12:55
		<b>Date:</b>	08/22/2012
Note: Lawrence Beals, President, Beals and Associates, Inc. is the site environmental contractor hired by Hickory Beech Realty Trust to oversee environmental compliance.			

<b>FACILITY DESCRIPTION / CONTACT NAMES</b>	
<b>Name of Site Contact (ESO Worksheet recipient):</b> Joseph Falzone	
<b>Name of Authorized Official (40 CFR 122.22):</b> Joseph Falzone	
<b>Inspection Date:</b> 08/22/2012	
<b>Start Construction Date:</b> 05/15/2006	
<b>Estimated Completion Construction Date:</b>	
<b>If Unpermitted, Number of Months Unpermitted:</b> 3	
<b>Name of Receiving Water Body (Indicate whether 303(d) listed):</b> Wetlands associated with the Ipswich River	
<b>Acres Currently Disturbed   Acres to be Disturbed in Whole Common Plan:</b> 19.00	
<b>Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)?</b> No	

	PERMIT COVERAGE	Findings	Citation Reference**	R C A*	No. of Deficien- cies	Dollar Amount	Total
3	Operator unpermitted for <u>3</u> months (# months unpermitted equals number of violations)	Operator had coverage under the 2003 CGP, but did not obtain coverage under the 2012 CGP from 5/16/12 (NOI deadline for existing permittees) through 8/22/12 (EPA inspection).	CWA 301		3	\$500.00 =	\$1,500

<b>SWPPP REVIEW</b>							
4	SWPPP not prepared (If no SWPPP, leave elements 5 - 30 blank)				X	\$5,000.00 =	
5	SWPPP prepared but prepared after construction start (# of months = # of violations)				X	\$75.00 =	
6	SWPPP does not identify all potential sources of pollution to include: porta-pottys, fuel tanks, staging areas, waste containers, chemical storage areas, concrete cure, paints, solvents, etc...				X	\$250.00 =	
7	SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control	SWPPP doesn't state SW mgmt. plan or responsibilities for individual lot owners/developers on the site.	CGP 5.2 & 7.1.1		1	\$500.00 =	\$500
8	SWPPP does not have site description, as follows:						
	A Nature of activity in description				X	\$100.00 =	
	B Intended sequence of major activities				X	\$100.00 =	
	C Total disturbed acreage				X	\$100.00 =	
	D General location map				X	\$100.00 =	
	E Site map				X	\$500.00 =	
	F Site map does not show drainage patterns, slopes, areas of disturbance, locations of major controls, structural practices shown, stabilization practices, offsite materials, waste, borrow or equipment storage areas, surface waters, discharge points, areas of final stabilization (count each omission under 8F as 1 violation)				X	\$50.00 =	
	G Location/description industrial activities, like concrete or asphalt batch plants				X	\$500.00 =	
9	SWPPP does not:						

	A	Describe all pollution control measures (e.g. BMPs)				X	\$750.00	=	
	B	Describe sequence for implementation				X	\$250.00	=	
	C	Detail operator(s) responsible for implementation				X	\$250.00	=	
10		SWPPP does not describe interim stabilization practices				X	\$250.00	=	
11		SWPPP does not describe permanent stabilization practices				X	\$250.00	=	
12		SWPPP does not describe a schedule to implement stabilization practices	SWPPP is outdated; no dates for temporary cease of construction or stabilization.	CGP 5.3.B & 7.2.4	1	X	\$250.00	=	\$250
13		Following dates are not recorded: major grading activities; construction temporarily or permanently ceased; stabilization measures initiated (count each omission under 13 as 1 violation)				X	\$250.00	=	
14		SWPPP does not have description of structural practices to divert flows from exposed soils, retain flows, or limit runoff from exposed areas				X	\$500.00	=	
15		SWPPP does not have a description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur AFTER construction operations have been completed				X	\$500.00	=	
16		SWPPP does not describe measures to prevent discharge of solid materials to waters of the US, except as authorized by 404 permit				X	\$500.00	=	
17		SWPPP does not describe measures to minimize off-site vehicle tracking and generation of dust				X	\$500.00	=	
18		SWPPP does not include description of construction or waste materials expected to be stored on site w/updates re: controls used to reduce pollutants from these materials				X	\$250.00	=	
19		SWPPP does not have description of pollutant sources from areas other than construction (asphalt or concrete plants) w/ updates re: controls to reduce pollutants from these materials				X	\$500.00	=	
20		SWPPP does not identify allowable sources of non-storm water discharges listed in subpart 1.3.B of the CGP				X	\$500.00	=	
21		SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm water discharges				X	\$500.00	=	
22		Endangered Species Act documentation is not in SWPPP				X	\$500.00	=	
23		Historic Properties (Reserved)				X		=	
24		Copy of permit and/or NOI not in SWPPP (count each omission under 24 as 1 violation)				X	\$250.00	=	
25		SWPPP is not consistent with requirements specified in applicable sediment and erosion site plans or site permits, or storm water management plans or site permits approved by State, Tribal or local officials (e.g., MS4 requirements)				X	\$750.00	=	
26		SWPPP has not been updated to remain consistent with changes applicable to protecting surface waters in State, Tribal or local erosion plans				X	\$250.00	=	
27		Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates				X	\$500.00	=	
28		SWPPP has not been updated/modified to reflect change at site effecting discharge, or where inspections identify SWPPP/BMPs as ineffective, updates to SWPPP regarding modifications to BMPs not made within 7 days of such inspection (count each omission under under 28 as 1 violation)	Topsfield Conservation Commission noted site BMPs issues in March 2010 and August 2011. MADEP noted site BMP issues in March 2010.	CGP 5.10.B & 7.4.1.3	2	X	\$50.00	=	\$100
29		Copy of SWPPP not retained on site				X	\$500.00	=	
	A	SWPPP not made available upon request				X	\$500.00	=	

30	SWPPP not signed/certified				X	\$500.00	=	
						<b>Subtotal SWPPP Deficiencies</b>		<b>\$850</b>
<b>INSPECTIONS</b>								
31	Inspections not performed and documented either once every 7 days, or once every 14 days and within 24 hours after storm event greater than 0.5 inches or greater (not required if: temp stabilization; runoff unlikely due to winter conditions; construction during arid periods in arid areas) (Count each failure to inspect and document as one violation).	No stormwater site inspections from 2010-2012 (except for 3 annual SW reports for Topsfield Conservation Commission on 8/14/10, 4/6/11, and 6/5/12).	CGP 4		42	X	\$250.00	= \$10,500
	No inspections conducted and documented (if True, then leave elements 32-39 blank)	No stormwater site inspections from 2010-2012 (except for 3 annual SW reports for Topsfield Conservation Commission on 8/14/10, 4/6/11, and 6/5/12).	CGP 4				True or False	False
	Number of Inspections expected if performed every 7 days:							
	Number of Inspections expected if performed bi-weekly:							
	If known, number of days of rainfall of >0.5"							
32	Inspections not conducted by qualified personnel					X	\$50.00	=
33	All areas disturbed by construction activity or used for storage of materials and which exposed to precipitation not inspected					X	\$50.00	=
34	All pollution control measures not inspected to ensure proper operation					X	\$50.00	=
35	Discharge locations are not observed and inspected					X	\$50.00	=
36	For discharge locations that are not accessible, nearby locations are not inspected					X	\$50.00	=
37	Entrance/exit not inspected for off-site tracking					X	\$50.00	=
38	Site inspection report does not include: date, name and qualifications of inspector, weather information, location of sediment/pollutant discharge, BMP(s) requiring maintenance, BMP(s) that have failed, BMP(s) that are needed, corrective action required including changes/updates to SWPPP and schedule/dates (count each omission under 38 as 1 violation)					X	\$50.00	=
39	Inspection reports not properly signed/certified (count each failure to sign/certify as 1 violation)					X	\$50.00	=
						<b>Subtotal Inspections Deficiencies</b>		<b>\$10,500</b>
<b>AVAILABILITY OF RECORDS</b>								
40	Sign/notice not posted					X	\$250.00	=
A	Does not contain copy of complete NOI					X	\$50.00	=
B	Location of SWPPP or contact person for scheduling viewing times where on-site location for SWPPP unavailable not noted on sign					X	\$50.00	=
						<b>Subtotal Records Deficiencies</b>		<b>\$0</b>
<b>BEST MANAGEMENT PRACTICES</b>								
41	No velocity dissipation devices located at discharge locations or outfall channels to ensure non-erosive flow to receiving water					X	\$500.00	=
42	Control measures are not properly:							
A	Selected, installed and maintained					X	\$500.00	=
B	Maintenance not performed prior to next anticipated storm event					X	\$250.00	=
	(count each failure to select, install, maintain each BMP as one violation)							
43	When sediment escapes the site, it is not removed at a frequency necessary to minimize off-site impacts					X	\$500.00	=

44	Litter, construction debris, and construction chemicals exposed to storm water are not prevented from becoming a pollutant source (e.g. screening outfalls, pickup daily, etc.)				X	\$500.00	=		
45	Stabilization measures are not initiated as soon as practicable on portions of the site where construction activities have temporarily or permanently ceased within 14 days after such cessation				X	\$500.00	=		
	*Exceptions:								
	(a) Snow or frozen ground conditions								
	(b) Activities will be resumed within 14 days								
	(c) Arid or Semi-arid areas (<20 inches per								
46	Common Drainage of 10+ acres does not have a sedimentation basin for the 2 year, 24 hour storm, or 3600 cubic ft. storage per acre drained				X	\$1,000.00	=		
A	Where sedimentation basin not attainable, smaller sediment basins, sediment traps, or erosion controls not implemented for downslope				X	\$1,000.00	=		
B	Sediment not removed from sediment basin or traps when design capacity reduced by 50% or more				X	\$500.00	=		
47	Common Drainage less than 10 acres does not have sediment traps, silt fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries (not required if sedimentation sediment basin meeting criteria in 46 above)				X	\$500.00	=		
A	Sediment not removed from sediment trap when design capacity reduced by 50% or more				X	\$500.00	=		
<b>Subtotal BMP Deficiencies</b>								<b>\$0</b>	
<b>SMALL BUSINESS EVALUATION</b>									
48	Is the Owner/Operator a Small Business?								
	A <i>small business</i> is defined by EPA's Small Business Compliance Policy as: "a person, corporation, partnership, or other entity that employs 100 or fewer individuals (across all facilities and operations owned by the small business)." The number of employees should be considered as full-time equivalents on an annual basis, including contract employees (see 40 CFR 372.3). A full time employee unit is 2000 hours worked per year.								
<b>Notes:</b>								<b>Total Expedited Settlement:</b>	<b>\$12,850</b>
* Requires Corrective Action									
** EPA NPDES General Permit for Stormwater Discharges from Construction Activities, effective July 1, 2003 and EPA NPDES General Permit For Stormwater Discharges from Construction Activities, effective February 16, 2012: <a href="http://cfpub.epa.gov/npdes/stormwater/cgp.cfm">http://cfpub.epa.gov/npdes/stormwater/cgp.cfm</a>									

## Appendix A

### Stormwater Inspection Calculation Assumptions:

- 2008-2009: No construction activity occurred on site during 2008-2009, according to Site representatives. Did not include missed inspection during this time.
  - 2010: Assume inspections required at minimum once/14 days = 2x/month (Apr. - Nov.) = 17 inspections - 1 annual insp. on 8/14/10 = 16 missed inspections.
  - 2011: Assume inspections required at minimum once/14 days = 2x/month (Apr. - Oct.) = 17 inspections - 1 annual insp. on 4/6/11 = 16 missed inspections.
  - 2012: Assume inspections required at minimum once/14 days = 2x/month (Apr. - Aug.) = 11 inspections - 1 annual insp. on 6/5/12 = 10 missed inspections.
- Note: Missing inspection reports for 2012 were calculated up to the EPA inspection date.

### Abbreviations:

- SW = Stormwater
- NPDES = National Pollutant Discharge Elimination System
- 2003 CGP = 2003 Construction General Permit [EPA NPDES General Permit for Stormwater Discharges from Construction Activities, effective July 1, 2003]
- 2012 CGP = 2012 Construction General Permit [EPA NPDES General Permit for Stormwater Discharges from Construction Activities, effective Feb. 16, 2012]
- SWPPP = Stormwater Pollution Prevention Plan
- BMPs = Best Management Practices (i.e. erosion and stormwater management controls).