



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-01-2021-0045, NPDES Permit No. N/A

The undersigned representatives of the United States Environmental Protection Agency (EPA) and 383 Park Street, LLC, a Massachusetts corporation (Respondent), enter into this Expedited Settlement Agreement (Agreement) to resolve Respondent's civil penalty liability at Shay Lane Subdivision in North Reading, MA (Site).

The EPA finds that Respondent: (1) discharged stormwater from the Site without authorization by any permit issued pursuant to the Clean Water Act (Act) in violation of section 301 of the Act, 33 U.S.C. § 1311; (2) failed to stabilize stockpiles at the Site, in violation of the National Pollutant Discharge Elimination System General Permit for Discharges from Construction Activities (as modified) (CGP), Sec. 2.2.5; (3) failed to maintain erosion controls, at the Site, in violation of CGP, Sec. 2.2.1; (4) failed to store and contain petroleum products at the Site in a manner designed to prevent/minimize the discharge of pollutants, in violation of CGP, Sec. 2.3.3; (5) Respondent is a "person" as defined in section 502(5) of the Act, 33 U.S.C. § 1362(5); and (6) Respondent is responsible for the alleged violations specified in the attached Expedited Settlement Offer Worksheet – Findings and Alleged Violations (Deficiencies Form). The Deficiencies Form is incorporated into this Agreement by reference.

The EPA also finds, and Respondent admits, that the EPA has jurisdiction over this matter pursuant to section 309(g) of the Act, 33 U.S.C. § 1319(g), and 40 C.F.R. part 22. Respondent neither admits nor denies the violations alleged in the Deficiencies Form.

Respondent agrees to pay a civil penalty of \$9,000 consistent with the attached Expedited Settlement Agreement Payment Instructions (Payment Instructions). Respondent waives the rights (1) to contest the allegations in the Deficiencies Form and (2) to appeal any final order an EPA Regional Judicial Officer may issue to ratify this Agreement (Final Order). The civil penalty will be due no later than 10 days after the issuance of the Final Order and shall be made in accordance with the attached Payment Instructions.

By signing this Agreement, Respondent certifies that: (1) the alleged violations listed in the Deficiencies Form have been corrected, and Respondent has submitted true and accurate documentation to the EPA of such correction; and (2) consistent with section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), Respondent will not deduct penalties paid under this Agreement for federal tax purposes.

This Agreement, upon incorporation into the Final Order and full satisfaction by the parties, shall be a complete and full resolution of Respondent's liability for federal civil penalties for the violations of the CGP and section 301(a) of the Clean Water Act alleged in the Deficiencies Form. This Agreement does not affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law or to issue an administrative compliance order, e.g., for any uncorrected violations listed in the Deficiencies Form. Nothing in this Agreement shall relieve Respondent of the duty to comply with the Act and any regulation, order, or permit issued pursuant to the Act.

Respondent agrees to acceptance of the Complainant's: i. digital or an original signature on this Agreement; ii. service of the fully executed Agreement on the Respondent by mail or electronically by e-mail. Respondent understands that the mailing or e-mail address may be made public when the Agreement and Certificate of Service are filed and uploaded to a searchable database. Complainant agrees to acceptance of the Respondent's digital or an original signature on this Agreement.

Prior to requesting that an EPA Regional Judicial Officer issue the Final Order, the EPA will provide public notice of this Agreement and a reasonable opportunity for the public to comment on it. The EPA will address any comments on this Agreement in accordance with section 309(g)(4) of the Act, 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45.

This Agreement is binding on the parties signing below and becomes final thirty (30) days from the date it is signed by the Regional Judicial Officer unless a petition to set aside this Agreement is filed by a commenter pursuant to Section 309(g)(5) of the Act, 33 U.S.C. § 1319(g)(5), following public noticing of this Agreement.

Attachments:

1. Deficiencies Form; 2. Payment Instructions

APPROVED BY THE EPA:

James Chow
Deputy Director for Karen McGuire, Enforcement and Compliance Assurance Division

APPROVED BY RESPONDENT:

Name (print): 383 Park St LLC David Mueray Mungen

Title (print): Mungen

Signature: 

Date: 3/10/2021

FINAL ORDER: More than 40 days have elapsed since the issuance of public notice pursuant to section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and the EPA has received no comments concerning this matter.

Having determined that this Agreement is authorized by law,
IT IS SO ORDERED:

Date: _____

Hon. LeAnn Jensen
Regional Judicial Officer
US EPA REGION 1 - New England