

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Jeffrey Norcross 11/30/11  
Name of Case Attorney Date

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

Case Docket Number CWA-01-2011-0110

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:

William Herman, Town Administrator  
Town of Auburn  
P.O. Box 309  
Auburn, NH 03032

Total Dollar Amount of Receivable \$ 3,000.00 Due Date: 12/9/11

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

RECEIVED

2011 NOV 30 P 12: 16

EPA ORC  
OFFICE OF  
REGIONAL HEARING CLERK

**BY HAND**

November 30, 2011

Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Re: In the Matter of: the Town of Auburn, NH  
Docket No. CWA-01-2011-0110

Dear Ms. Santiago:

In accordance with 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and 22.45(c)(3), enclosed please find the original and one copy of the fully executed Consent Agreement and Final Order (in the form of an Expedited Settlement Agreement) resolving the above-referenced case.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey Norcross".

Jeffrey Norcross, Paralegal

Enclosures

cc: William G. Herman, Town Administrator, Town of Auburn  
Russell Sullivan, Chair, Board of Selectmen, Town of Auburn

**In the Matter of: the Town of Auburn, NH**  
**EPA Docket No. CWA-01-2011-0110**

**CERTIFICATE OF SERVICE**

I certify that the foregoing Consent Agreement and Final Order (in the form of an Expedited Settlement Agreement) was transmitted to the following persons, in the manner specified, on the date below:

Original and one copy  
hand-delivered:

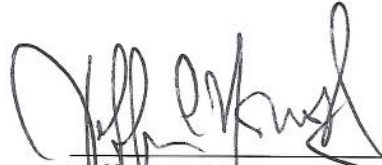
Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Copy by certified mail,  
return receipt requested:

William Herman, Town Administrator  
Town of Auburn  
P.O. Box 309  
Auburn, NH 03032

Dated: \_\_\_\_\_

11/30/11



Jeffrey C. Norcross, Paralegal  
Office of Environmental Stewardship  
U.S. EPA, Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912  
Phone: (617) 918-1839  
Fax: (617) 918-0839



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

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

EXPEDITED SETTLEMENT AGREEMENT

Issued under Section 309(g)(2)(A) of the Clean Water Act, 33 U.S.C. § 1319(g)(2)(A) and 40 C.F.R. § 22.13(b).

Docket Number: CWA-01-2011-0110

RECEIVED

2011 NOV 30 12:17  
EPA ORC  
OFFICE OF  
REGIONAL HEARING CLERK

The Town of Auburn, New Hampshire ("Respondent") is a "municipality" and a "person" discharging "pollutants" from "point sources" to "navigable waters," as those terms are defined in Section 502 of the Clean Water Act ("Act"), 33 U.S.C. § 1362. Respondent is an owner and operator of a regulated small Municipal Separate Storm Sewer System ("MS4") as defined at 40 C.F.R. §§ 122.26(b)(16) and 122.32(a), which is covered by the National Pollutant Discharge Elimination System ("NPDES") General Permit for Storm Water Discharges from Small Municipal Separate Sewer Systems ("Permit") issued under Section 402 of the Act, 33 U.S.C. § 1342, dated May 1, 2003, and continued in effect pursuant to 40 C.F.R. § 122.6.

EPA finds, and Respondent admits, that pursuant to Part III, F.1. of the Permit, Respondent was required to submit an Annual Report on May 1, 2011 and Respondent failed to submit this Annual Report in violation of the Permit. Respondent also failed to file another annual report on its MS4 program, due May 1, 2010, in a timely manner. By violating the terms and conditions of the Permit issued pursuant to Section 402 of the Act, Respondent has violated Section 301(a) of the Act, 33 U.S.C. § 1311(a).

The parties enter into this Expedited Settlement Agreement ("Agreement") in order to settle the civil violation alleged above for a penalty of \$3,000.

Respondent agrees that, within 10 days of the final date of this Agreement, Respondent shall submit a 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 the Town of Auburn, NH, Docket No. CWA-01-2011-0110, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000.

Respondent consents to the assessment of this penalty, and waives the right to: (1) contest the findings of violation specified in this Agreement; (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 all required Annual Reports have been submitted to EPA, or will be submitted to EPA within 10 days of the final date of this Agreement (or an alternative time frame agreed to by EPA in writing).

This Agreement settles EPA's civil penalty claims against Respondent for the violation(s) specified above. EPA does not waive its rights to take enforcement action against Respondent for

any other past, present, or future 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 violation(s).

If Respondent does not sign and return this Agreement within 21 days of the date of receipt of this Letter, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified herein.

This Agreement is binding on the parties signing below and final 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 Act, 33 U.S.C. § 1319(g)(4)(C), and 40 C.F.R. Part 22, following public noticing of this settlement.

APPROVED BY THE TOWN OF AUBURN, NEW HAMPSHIRE:

Name(print): Russell Sullivan

Title(print): Chairman

Signature: Russell Sullivan Date: 9/26/11

APPROVED BY EPA:

Joanna Jerison Date: 10/5/11

Joanna Jerison, Legal Enforcement Manager  
Office of Environmental Stewardship

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 EPA has received no comments concerning this matter.

IT IS SO ORDERED:

Jill Metcalf Date: Nov. 29, 2011  
Jill Metcalf

Acting Regional Judicial Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

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

EXPEDITED SETTLEMENT AGREEMENT

Issued under Section 309(g)(2)(A) of the Clean Water Act, 33 U.S.C. § 1319(g)(2)(A) and 40 C.F.R. § 22.13(b).

Docket Number: CWA-01-2011-0110

RECEIVED

EPA ORC OFFICE OF REGIONAL HEARING CLERK

The Town of Auburn, New Hampshire ("Respondent") is a "municipality" and a "person" discharging "pollutants" from "point sources" to "navigable waters," as those terms are defined in Section 502 of the Clean Water Act ("Act"), 33 U.S.C. § 1362. Respondent is an owner and operator of a regulated small Municipal Separate Storm Sewer System ("MS4") as defined at 40 C.F.R. §§ 122.26(b)(16) and 122.32(a), which is covered by the National Pollutant Discharge Elimination System ("NPDES") General Permit for Storm Water Discharges from Small Municipal Separate Sewer Systems ("Permit") issued under Section 402 of the Act, 33 U.S.C. § 1342, dated May 1, 2003, and continued in effect pursuant to 40 C.F.R. § 122.6.

any other past, present, or future 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 violation(s).

If Respondent does not sign and return this Agreement within 21 days of the date of receipt of this Letter, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified herein.

This Agreement is binding on the parties signing below and final 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 Act, 33 U.S.C. § 1319(g)(4)(C), and 40 C.F.R. Part 22, following public noticing of this settlement.

EPA finds, and Respondent admits, that pursuant to Part III, F.1. of the Permit, Respondent was required to submit an Annual Report on May 1, 2011 and Respondent failed to submit this Annual Report in violation of the Permit. Respondent also failed to file another annual report on its MS4 program, due May 1, 2010, in a timely manner. By violating the terms and conditions of the Permit issued pursuant to Section 402 of the Act, Respondent has violated Section 301(a) of the Act, 33 U.S.C. § 1311(a).

APPROVED BY THE TOWN OF AUBURN, NEW HAMPSHIRE:

Name(print): Russell Sullivan

Title(print): Chairman

Signature: Russell Sullivan Date: 9/26/11

The parties enter into this Expedited Settlement Agreement ("Agreement") in order to settle the civil violation alleged above for a penalty of \$3,000.

APPROVED BY EPA:

Joanna Jerison Date: 10/5/11

Joanna Jerison, Legal Enforcement Manager  
Office of Environmental Stewardship

Respondent agrees that, within 10 days of the final date of this Agreement, Respondent shall submit a 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 the Town of Auburn, NH, Docket No. CWA-01-2011-0110, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000.

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 EPA has received no comments concerning this matter.

Respondent consents to the assessment of this penalty, and waives the right to: (1) contest the findings of violation specified in this Agreement; (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).

IT IS SO ORDERED:

Jill Metcalf Date: Nov. 29, 2011

Jill Metcalf  
Acting Regional Judicial Officer

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that all required Annual Reports have been submitted to EPA, or will be submitted to EPA within 10 days of the final date of this Agreement (or an alternative time frame agreed to by EPA in writing).

This Agreement settles EPA's civil penalty claims against Respondent for the violation(s) specified above. EPA does not waive its rights to take enforcement action against Respondent for



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 1 – New England  
5 Post Office Square - Suite 100  
Boston, Massachusetts 02109-3912

**BY HAND**

November 28, 2011

Jill T. Metcalf  
Acting Regional Judicial Officer  
U.S. Environmental Protection Agency, Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Re: In the Matter of the Town of Auburn, New Hampshire  
Docket No. CWA-01-2011-0110

Dear Ms. Metcalf:

In accordance with 40 C.F.R. § 22.18(b), enclosed please find a Clean Water Act (“CWA”) Consent Agreement and Final Order (in the form of an Expedited Settlement Agreement) that has been signed by the parties and is now being submitted to you for approval. Consistent with 40 C.F.R. §§ 22.13(b) and 22.18(b), this Consent Agreement and Final Order both commences and concludes the matter referenced above.

The proposed penalty is consistent with the statutory penalty factors set forth in Section 309(g) of the CWA, 33 U.S.C. § 1319(g), as well as EPA’s settlement penalty policy for these types of violations.

Pursuant to 40 C.F.R. § 22.45, EPA was required to notify the public before assessing a civil penalty in any proceeding under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g). Accordingly, EPA has provided the public the opportunity to comment on this matter and received no comments on this proposed action. In accordance with § 22.45(c)(3), the Final Order is being submitted to you at least 10 days after the close of the public comment period.

Once the Final Order has been signed, EPA will file the fully executed CAFO with the Regional Hearing Clerk thereby resolving this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeffrey C. Norcross".

Jeffrey C. Norcross  
Paralegal

Enclosure

cc: William G. Herman, Town Administrator, Town of Auburn  
Russell Sullivan, Chair, Board of Selectmen, Town of Auburn  
Wanda Santiago, Regional Hearing Clerk (w/o enclosure)