

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Tahani Rivers 9/24/19
Name of Case Attorney Date

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

Case Docket Number CWA-DI-2019-0051

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:

James F. Kane
A.D. Makepeace Company
158 Tihonet Road
Wareham, MA 02571

Total Dollar Amount of Receivable \$ 4,800 Due Date: 10/4/19

SEP due? Yes _____ No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

- 1st \$ _____ on _____
- 2nd \$ _____ on _____
- 3rd \$ _____ on _____
- 4th \$ _____ on _____
- 5th \$ _____ 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
Boston, Massachusetts 02109-3912

VIA HAND DELIVERY

September 24, 2019

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square - Suite 100
Mail Code: 04-6
Boston, MA 02109-3912

RECEIVED

SEP 24 2019

EPA ORC WS
Office of Regional Hearing Clerk

Re: *In the Matter of: A.D. Makepeace Company*
CWA-01-2019-0051

Dear Ms. Santiago:

Enclosed please find the original and one copy of an Expedited Settlement Agreement (the "Agreement") settling the above-captioned case. The Agreement has been signed by the parties and approved by the Regional Judicial Officer.

Sincerely,

A handwritten signature in cursive script that reads "Denny Dart".

Denny Dart, Chief
Water Compliance Section
Enforcement and Compliance Assurance Division

Enclosure

cc: James F. Kane, A.D. Makepeace Company



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

RECEIVED

SEP 24 2019

EPA ORC WS
 Office of Regional Hearing Clerk

EXPEDITED SETTLEMENT AGREEMENT
 Docket Number: CWA-01-2019-0051

A.D. Makepeace Company ("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 into this Expedited Settlement Agreement ("Agreement"). By its signature, Complainant ("EPA") finds that Respondent is responsible for the deficiencies specified in the Form.

EPA finds that Respondent failed to comply with its National Pollutant Discharge Elimination System ("NPDES") stormwater 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 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 \$4,800. 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) of the Act, 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 has submitted a written report detailing the specific actions taken to correct the deficiencies cited herein with its signature to this Agreement.

The civil penalty will be due no later than 10 days after this Agreement becomes final and shall be made in accordance with the attached Expedited Settlement Agreement Payment Instructions.

Pursuant to Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9), failure by Respondent to pay in full the civil penalty amount as set forth in this Agreement shall subject Respondent to a civil action to collect the assessed penalty, plus interest and other charges from the date that this Agreement becomes final.

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

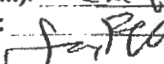
Respondent for any other past, present, or future civil or criminal violation of the Act or of any other federal statute or regulation. EPA does not waive its right to issue a compliance order for any uncorrected deficiencies or violation(s) described in the Form. EPA has determined this Agreement to be appropriate.

This Agreement is binding on the parties signing below and 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.

APPROVED BY EPA:


 Date: 8/1/19
 Karen McGuire
 Director, Enforcement and Compliance Assurance Division

APPROVED BY RESPONDENT:

Name (print): James F Kave
 Title: (print): Chief Operating Officer
 Signature:  Date: 8/1/19

At least 10 days have elapsed since expiration of the public notice and comment period required by Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and EPA did not receive any public comments or petitions to set aside this Agreement.

IT IS SO ORDERED:


 Date: 9/19/19
 LeAnn Jensen
 Regional Judicial Officer

Expedited Settlement Agreement Payment Instructions

Docket No. CWA-01- 2019-0051

Payment shall be in a single payment of \$4,800. The Expedited Settlement Agreement becomes final 30 calendar days from the date that the Regional Judicial Officer signs it. The civil penalty is due no later than 10 days after the Expedited Settlement Agreement becomes final. If the due date for the payment falls on a weekend or federal holiday, then the due date is the next business day. The date the payment is made is considered to be the date processed by U.S. Bank, as described below. Payment must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.

The payment shall be made by remitting a bank or certified check or making a wire transfer or on-line payment. The check or other payment shall:

- designate the name (“*In the Matter of: A.D. Makepeace Company*”) and docket number (“CWA-01-2019-0051”) of this case, and
- be payable to “Treasurer, United States of America.”

The payment shall be remitted as follows:

If remitted by regular U.S. mail:

U.S. EPA / Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If remitted by any overnight commercial carrier:

U.S. Bank
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045

Expedited Settlement Offer Worksheet
Findings and Alleged Violations
Consult instructions regarding eligibility criteria and procedures prior to use



	LEGAL NAME AND MAILING ADDRESS OF OPERATOR	Telephone Number	NPDES Permit Number			
1	A.D.Makepeace Company 158 Tihonet Road Wareham, MA 02571	508-295-1000	MAR1000VU			
		Inspector Name:	Stephanie Tougas, Andrew Spejewski			
		Inspector Agency:	US EPA			
		Entrance Interview Conducted:	Yes			
		Exit Interview Conducted:	Yes			
		Exit Interview given to:	Terry Gibbs			
		Exit Interview time:	11-15 Date: 05/10/2019			
LOCATION AND ADDRESS OF SITE						
2	off of Federal Road Carver, MA					
FACILITY DESCRIPTION / CONTACT NAMES						
3	Name of Site Contact (ESO Worksheet recipient):	James F. Kane				
	Name of Authorized Official (40 CFR 122.22):	James F. Kane				
	Inspection Date:	05/10/2019				
	Start Construction Date:	12/01/2017				
	Estimated Completion Construction Date:	07/01/2020				
	If Unpermitted, Number of Months Unpermitted:					
	Name of Receiving Water Body (Indicate whether 303(d) listed):	Wankinco River				
	Acres Disturbed Acres for Whole Common Plan:	49.50				
	Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)?					
	PERMIT COVERAGE	Findings	CGP Citation Reference	No. of Violations	Violation Amount	Settlement Offer
4	Operator unpermitted for _____ months (# months unpermitted equals number of violations)		1.4.3; CWA 301	X	\$600.00	
USE OF CATIONIC TREATMENT CHEMICALS (WHERE APPLICABLE)						
5	Proper notice was not provided for use of cationic treatment chemicals prior to submittal of the NOI.		1.1.9		\$300.00	
POST NOTICE OF PERMIT COVERAGE						
6	A Sign/notice not posted as required. (If no sign/notice posted, leave elements B and C blank.)		1.5		\$300.00	
	B Did not post NPDES ID (permit tracking number) assigned to NOI		1.5.a		\$60.00	
	C Did not post contact for obtaining additional information; URL for SWPPP or statement to contact EPA for SWPPP; or information on how to report discharges to EPA. (Count each omission under C as one violation.)		1.5.b-d	X	\$60.00	
SWPPP REVIEW						
7	SWPPP not prepared. (If no SWPPP, leave elements 8 - 21 blank)		7.1		\$6,000.00	
8	SWPPP prepared after construction start (# of months = # of violations)		7.1	X	\$90.00	
9	A SWPPP does not list all operators for the project site and the areas of the site over which each operator has control.		7.2.1		\$600.00	
	B SWPPP does not identify stormwater team and respective responsibilities.		7.2.2		\$300.00	
10	SWPPP does not include:					
	A Description of the nature of construction activities.		7.2.3.a		\$120.00	
	B The size of the property; the total area expected to be disturbed by the construction activities; or the maximum area expected to be disturbed at any one time including onsite and offsite construction support activity areas. (Count each omission under B as one violation.)		7.2.3 b, c, e	X	\$120.00	
	C A description of any onsite/offsite construction support activities.		7.2.3.d		\$600.00	
	D A description and projected schedule for each portion of the site for the following: (i) commencement of construction activities including clearing/grubbing, mass grading, demolition activities, site preparation, final grading, and creation of soil and vegetation stockpiles requiring stabilization; (ii) temporary or permanent cessation of construction activities; (iii) temporary or final stabilization; (iv) removal of temporary stormwater controls, construction equipment, and vehicles, and cessation of construction-related pollutant-generating activities. (Count each omitted category as one violation.)		7.2.3.f	X	\$300.00	
	E A list and description of all pollutant-generating activities.		7.2.3.g		\$300.00	
	F Business days and hours for the project.		7.2.3.h		\$60.00	

17	SWPPP does not document contacts, where applicable, with UIC regulatory authority regarding compliance with SDWA UIC Requirements for Certain Subsurface Stormwater Controls (e.g., infiltration trenches, commercially manufactured subsurface detention vaults, chambers or other such devices; drywells, seepage pits or improved sinkholes).		7.2.9.c					\$600.00	
18	SWPPP not signed/dated/certified.		7.2.10					\$600.00	
19	Copy of NOI and relevant correspondence, acknowledgement letter received from NeT, or Permit (can be electronic) not included as part of SWPPP. (Count each omission as one violation.)		7.2.11 a- c			X		\$300.00	
20	Copy of SWPPP is not retained on site or otherwise easily accessible.		7.3					\$600.00	
21	SWPPP (including site map) has not been updated/modified within 7 days to reflect the following: (a) new operators became active, or changes were made to construction plans, stormwater controls, or other activities; (b) changes to site map where operation control has been transferred; (c) EPA determines SWPPP modifications are necessary; (d) EPA determines installation/implementation of additional controls are necessary; (e) revisions to applicable federal, state, tribal, or local requirements that affect stormwater controls; or (f) changes in chemical treatment systems or chemically enhanced stormwater control. (Count each omission as one violation.)		7.4.1			X		\$60.00	
	Records showing dates of SWPPP modifications not maintained including name of appropriate person authorizing each change; changes not authorized by appropriate person; or failure to provide notification where required to any operators who may be impacted by the change. (Count each omission as 1 violation.)		7.4.2; 7.4.3; 7.4.4			X		\$60.00	
22	INSPECTIONS								
	Number of Inspections required if performed every 7 days:								
	Number of Inspections required if performed every 14 days:	16							
	If known, and if applicable, number of days of rainfall of > 0.25" :								
	Number of inspections required under a reduced frequency								
	TOTAL number of required inspections								
	TOTAL number of inspections conducted/documentd	16							
23	A All required inspections were not conducted and timely documented. (If no inspections were conducted and documented, then leave elements 24-28 blank)	X						True or False	TRUE
	B Inspections not performed and timely documented either once every 7 days, or once every 14 days and within 24 hours after a storm event of 0.25 inches or greater. Where an increase or reduction in inspection frequency applies (per Parts 4.3 or 4.4), inspections not performed/documentd in accordance with applicable frequency. (Count each failure to inspect and document as one violation.)		4.2 - 4.4; 4.7.1			16	X	\$300.00	\$4,800
				A.D. Makapeace Company failed to conduct and document inspections from January 2018 - April 2019. Penalty is calculated taking into account the inactive winter months.					
24	Inspections not conducted by qualified personnel		4.1					\$60.00	
25	The following areas were not inspected:							\$60.00	
	A All areas that have been cleared, graded, or excavated and not yet stabilized.		4.5.1					\$60.00	
	B All stormwater controls (including pollution prevention controls) installed at the site. Check whether they are properly installed, operational and working as intended.		4.5.2; 4.6.1					\$60.00	
	C Material, waste, borrow and equipment storage and maintenance areas that are covered by this Permit.		4.5.3					\$60.00	
	D Areas where stormwater typically flows within the site.		4.5.4					\$60.00	
	E All points of discharge from the site.		4.5.5					\$60.00	
	F All locations where stabilization measures have been implemented.		4.5.6					\$60.00	
26	If a discharge is occurring, identify all discharge points and observe/document the visual quality of the discharge.		4.6.6			X		\$60.00	
27	Site inspection report does not include: (a) date, (b) name and title of inspector, (c) summary of inspection findings in accordance with Part 4.6 and any necessary maintenance or corrective actions, (d) rainfall data (where required), (e) if unsafe to inspect a portion of the site, a description of the reason. (Count each omission as 1 violation.)		4.6; 4.7.1.a - e			X		\$60.00	
28	Inspection reports not properly signed/certified. (Count each failure to sign/certify as one violation.)		4.7.2					\$60.00	

	P	If using treatment chemicals, failure to comply with any of the following: direct treated stormwater to a sediment control; select appropriate chemicals; minimize risk of discharge from stored chemicals; state/local requirements, good engineering practices and chemical provider/supplier's specifications; and/or any additional measure specified by EPA.		2.2.13.a-g			\$1,200.00	
	Q	Installation of stabilization measures are not initiated immediately where construction activities have permanently ceased or will be temporarily inactive for 14 or more calendar days, and/or installation of stabilization measures are not completed within 14 calendar days (where five acres or less) or 7 days (where more than five acres) after stabilization has been initiated, or (where applicable) stabilization not in compliance with appropriate timeframes for exceptions below.		2.2.14.a			\$600.00	
		*Exceptions:						
		(a) Arid, semi-arid areas and drought-stricken areas (0 to 10 inches average annual rainfall)						
		(b) Unforeseen circumstances						
		(c) Discharges to a sediment- or nutrient-impaired water, or to a water that is Tier 2, 2.5 or 3 for antidegradation purposes.						
	R	Final Stabilization Criteria not achieved as required.		2.2.14.b			\$1,200.00	
	S	Other needed control measures not properly selected or installed. (Each omission is 1 violation.)		2.1			\$600.00	
31	Pollution Prevention Requirements							
	A	Failure to provide effective controls for equipment and vehicle fueling and maintenance activities.		2.3.1.a-f			\$600.00	
	B	Failure to effectively minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water and other types of wash waters.		2.3.2.a-c			\$600.00	
	C	Failure to implement appropriate controls to prevent/minimize the discharge of pollutants from any of the following: building materials/products; landscaping chemicals and materials; petroleum products and other chemicals; hazardous and toxic waste; construction and domestic wastes; and/or sanitary wastes.		2.3.3.a-f			\$600.00	
	D	Failure to provide effective controls for washing applicators/containers for stucco, paint, concrete, form release oils, curing compounds or other materials.		2.3.4.a-c			\$600.00	
	E	Failure to comply with requirements for application of fertilizers (appropriate application rate and time of year; avoid applying before heavy rains; never apply to frozen ground or conveyance channels; follow all applicable federal/state/tribal/local requirements).		2.3.5.a-f			\$600.00	
	F	Failure to comply with any requirements for construction dewatering: appropriate treatment; no visible floating solids or foam; use of oil-water separator or suitable filtration device when required; use of vegetated upland areas for infiltration; compliance with velocity dissipation requirements (Part 2.2.11); haul away or return backwash water to the beginning of the treatment process; and/or replace/clean filter media when required.		2.4			\$600.00	
32	SMALL BUSINESS EVALUATION							
		Is the Owner/Operator a Small Business?					Yes or No	
		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.						
							Total Expedited Settlement:	\$4,800

In the Matter of: A.D. Makepeace Company
CWA-01-2019-0051

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Expedited Settlement Agreement was sent to the following persons, in the manner specified, on the date below:

Original and one copy,
By Hand Delivery to:

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square - Suite 100
Mail Code: 04-6
Boston, MA 02109-3912

Copy by Certified Mail,
Return Receipt Requested, to:
(includes Letter to Ms. Santiago)

James F. Kane
A.D. Makepeace Company
158 Tihonet Road
Wareham, MA 02571

Copy by First Class Mail to:

David Burns
Massachusetts Department of Fisheries and
Wildlife
20 Riverside Drive
Lakeville, MA 02347

Dated: _____

9/24/19



Denny Dart, Chief
Water Compliance Section
Enforcement and Compliance Assurance
Division
U.S. EPA, Region 1
5 Post Office Square - Suite 100
Mail Code: 04-4
Boston, MA 02109-3912
(617) 918-1850