



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY – REGION 2**  
**Enforcement and Compliance Assurance Division**  
**290 Broadway**  
**New York, New York 10007-1866**

**EXPEDITED STORM WATER SETTLEMENT AGREEMENT**

**Docket Number: CWA-02-2021-3307, Permit: NYR11D743/ NYR11G027**

Be&Yo Realty, Inc. (“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” (herein the “Form”), which is incorporated by reference. By its signature, Complainant (“EPA”) finds that Respondent is responsible for the deficiencies specified in the Form.

Respondent failed to comply with its Construction General Permit in violation of Section 301(a) and 402 of the Clean Water Act, 33 U.S.C. §1311 and §1342, as described in the attached table.

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 the allegations and any “person” who “discharges pollutants” from a “point source” to “waters of the United States.” Respondent neither admits nor denies the allegation(s) 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). *For* The parties enter into this Agreement in order to settle the civil violation(s) alleged in this Agreement for a penalty of **\$12,320**. Respondent consents to the assessment of this penalty, and waives the right to: (1) contest the finding(s); (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 it has corrected any deficiencies identified in the Form, and to the best of its knowledge, is in compliance with the NPDES permitting program.

Respondent certifies that, within ten (10) days of receiving notice from EPA that the Agreement is effective (“So Ordered”) it will send a bank, cashiers or certified check for the amount specified above payable to the “Treasurer, United States of America,” via certified mail, to:

Regional Hearing Clerk  
 U.S. EPA, Region 2

In the Matter of: Be&Yo Realty, Inc  
 Docket No.: CWA-02-2021-3307  
 Cincinnati Finance Center, PO Box 979077  
 St. Louis, MO 63197-9000

*For*

This Agreement settles EPA’s civil penalty claims against Respondent for the CWA violation(s) specified in this Agreement. However, 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 effective thirty (30) days from the date it is signed (“Approved”) by the Director of the Enforcement and Compliance Assurance Division 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 Part 22.

**APPROVED BY EPA:**  
 Digitally signed by  
 Anderson, Kate  
 Date: 2021.05.21  
 14:49:11 -04'00'  
 te \_\_\_\_\_ Date: **5/21/21**  
**Dore LaPosta, Division Director**  
**Enforcement and Compliance Assurance Division**

**APPROVED BY RESPONDENT** in accordance with 40 C.F.R. §122.22:

Name: Benny Wercberger, Owner, Be&Yo Realty, Inc.

Signature: *Benny Wercberger* Date: 5/6/2021

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.

Having determined that this CAFO is authorized by law and is in the public interest,

**IT IS SO ORDERED:**  
 \_\_\_\_\_ Date: **7/22/21**  
**Dore LaPosta, Division Director**  
**Enforcement and Compliance Assurance Division**