



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

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

Received by
EPA Region 1
Hearing Clerk

Consent Agreement and Final Order

Docket Number: CWA-01-2022-0007

U-Haul Co. of Western Massachusetts, Inc., a Massachusetts corporation (Respondent) is the owner and operator of a construction site on Duval Road in Lancaster, MA (Site). The United States Environmental Protection Agency (EPA) alleges that Respondent discharged stormwater from the Site during wet-weather events from July 1, 2021 through September 30, 2021, into an unnamed wetland and brook flowing into Fort Pond, which are “waters of the United States,” as defined in section 502(7) of the Clean Water Act (Act), 33 U.S.C. 33 U.S.C. § 1362(7), without authorization by any permit issued pursuant to the Act in violation of Section 301 of the Act, 33 U.S.C. § 1311. Respondent is a “person” as defined in section 502(5) of the Act, 33 U.S.C. § 1362(5). While admitting the jurisdictional allegations herein, 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 any specific factual allegations.

EPA is authorized to enter into this Consent Agreement and Final Order (CAFO) under Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and 40 C.F.R. § 22.13(b). In consideration of the statutory penalty factors listed in Section 309(g), and applicable EPA penalty policy, the parties enter into this CAFO to settle the alleged civil violations described above for a penalty of \$18,000. Respondent consents to the assessment of this penalty and the terms of this CAFO.

This CAFO is subject to the following terms: Within 10 days of the final date of this CAFO, Respondent shall send a check in the amount of \$18,000, payable to “Treasurer, United States of America,” to: U.S. Environmental Protection Agency, Fines and Penalties, P.O. Box 979077, St. Louis, MO 63197-9000. The check shall reference the name of this case (“In the Matter of U-Haul Co. of Western Massachusetts, Inc.”) and the docket number (Docket No. CWA-01-2022-0007). Respondent agrees to send a copy of the check to: 1) Andrew Spejewski at spejewski.andrew@epa.gov; and 2) Wanda I. Santiago, Regional Hearing Clerk, at R1_Hearing_Clerk_Filings@epa.gov and Santiago.Wanda@epa.gov.

Once the CAFO is signed by the Regional Judicial Officer, the original will be filed with the Regional Hearing Clerk and a copy mailed to: U.S. Environmental Protection Agency, Cincinnati Finance Office, 26 W. Martin Luther King Drive (MS-WG32B), Cincinnati, Ohio 45268. A copy of the CAFO will also be mailed or emailed to the Respondent. Upon signing and returning this CAFO to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 309 of the Act, 33 U.S.C. § 1319, and consents to EPA’s approval of the CAFO without

further notice. Prior to requesting that an EPA Regional Judicial Officer issue the Final Order, the EPA will provide public notice of this CAFO and a reasonable opportunity for the public to comment on it. The EPA will address any comments on this CAFO 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 CAFO is binding on the parties signing below and will become final 30 days from the date it is signed by the Regional Judicial Officer unless a petition to set aside this CAFO is filed by a commenter pursuant to Section 309(g)(5) of the Act, 33 U.S.C. § 1319(g)(5) following public notice of this settlement.

Failure to pay the full penalty shall subject Respondent to a civil action to collect the penalty plus interest and other charges from the date the CAFO becomes final.

If Respondent does not sign and return this CAFO within 30 days of the date of its receipt, the proposed agreement is withdrawn without prejudice to EPA’s ability to file any other enforcement action for the noncompliance identified in this document.

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.

After this CAFO becomes final, EPA will take no further civil penalty action against Respondent for the alleged violations of the Act described in this CAFO. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by Respondent of the Act or of any other federal statute or regulations.

By signing this CAFO, Respondent certifies that: (1) the alleged violations listed in this CAFO 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 CAFO for federal tax purposes.

APPROVED BY EPA:

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

APPROVED BY RESPONDENT:

Name (print): Jeffery H. Vaine

Title (print): Owners Representative

Signature: Jeff H. Vaine

Date: 12-28-2021

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 CAFO is authorized by law,

IT IS SO ORDERED:

Date: _____

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