

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Tim Conway 7/9/19  
Name of Case Attorney Date

in the ORC (RAA) at 918-1115  
Office & Mail Code Phone number

Case Docket Number CWA-01-2019-0017

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:

Richard Terrill  
Fafard Real Estate and Development Corp.  
120 Quarry Drive  
Milford, MA 01757

Total Dollar Amount of Receivable \$ 48,000.00 Due Date: 7/19/19

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  
FIVE POST OFFICE SQUARE SUITE 100  
BOSTON, MASSACHUSETTS 02109-3912

July 9, 2019

RECEIVED

JUL 09 2019

EPA ORC  
Office of Regional Hearing Clerk

**BY HAND**

Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region I  
5 Post Office Square  
Suite 100, Mail Code ORC04-6  
Boston, MA 02109-3912

Re: *In the Matter of Fafard Real Estate and Development Corp., et al.*  
Docket No. CWA-01-2019-0017

Dear Ms. Santiago,

Enclosed for filing, please find an original and one copy of the Consent Agreement and Final Order (CAFO) settling the matter referenced above.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Tim Conway".

Tim Conway  
Acting Deputy Regional Counsel  
EPA Region I

Enclosures

Cc: Jeffrey Roelofs, Law Offices of Jeffrey L. Roelofs, P.C.

***In the Matter of: Fafard Real Estate and Development Corp. et al.***  
**Docket No. CWA-01-2019-0017**

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent to the following persons, in the manner specified on the date below:

Original and copy hand-delivered: Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region I  
5 Post Office Square, Suite 100  
Mail Code ORC04-6  
Boston, Massachusetts 02109-3912

Copy by certified mail, return receipt requested Jeffrey L. Roelofs  
44 Merrimac St.  
Newburyport, MA 01950

Richard Terrill  
Fafard Real Estate and Development Corp.  
120 Quarry Drive  
Milford, MA 01757

Copy by first-class mail to: Pamela Talbot, Enforcement Coordinator  
Massachusetts Dep't of Environmental Protection  
One Winter Street, 7<sup>th</sup> floor  
Boston, Massachusetts 02108

Dated: 7/9/19

  
\_\_\_\_\_  
Tim Conway  
Acting Deputy Regional Counsel  
U.S. EPA, Region I  
5 Post Office Square, Suite 100  
Mail Code OES4-3  
Boston, MA 02109-3912  
(617) 918-1705

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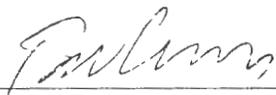
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Case Docket Number CWA-01-2019-0017

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Sincerely,

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Tim Conway  
Acting Deputy Regional Counsel  
EPA Region 1

Enclosures

Cc: Jeffrey Roelofs, Law Offices of Jeffrey L. Roelofs, P.C.

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Boston, Massachusetts 02109-3912

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Jeffrey L. Roelofs  
44 Merrimac St.  
Newburyport, MA 01950

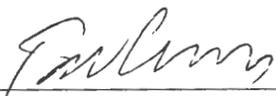
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Pamela Talbot, Enforcement Coordinator  
Massachusetts Dep't of Environmental Protection  
One Winter Street, 7<sup>th</sup> floor  
Boston, Massachusetts 02108

Dated:

7/9/19

  
\_\_\_\_\_  
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Acting Deputy Regional Counsel  
U.S. EPA, Region I  
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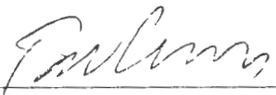
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Acting Deputy Regional Counsel  
U.S. EPA, Region I  
5 Post Office Square, Suite 100  
Mail Code OES4-3  
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4. Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), provides that, prior to issuing an order assessing a penalty under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), EPA must provide public notice of, and reasonable opportunity to comment on, the proposed issuance of such order. EPA has satisfied this requirement by providing public notice of, and reasonable opportunity to comment on, the proposed issuance of such order, and has received no comments on the proposed issuance of the order.

## **II. CONSENT AGREEMENT**

5. Each Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint.

6. Each Respondent waives any defenses it may have as to jurisdiction and venue, and, without admitting or denying the facts and violations alleged in the Complaint, consents to the terms of this CAFO.

## **III. WAIVER OF RIGHTS**

7. Each Respondent hereby waives its right to request a hearing under Section 309(g)(2)(B), 33 U.S.C. § 1319(g)(2)(B), and to any appeal of the Final Order in this matter under Section 309(g)(8)(B), 33 U.S.C. § 1319(g)(8)(B). Each Respondent consents to the issuance of the Final Order included with this Consent Agreement without further adjudication.

## **IV. PENALTY**

8. EPA proposes and Respondents consent to the assessment of a civil penalty in the amount of forty-eight thousand dollars (\$48,000).

## **V. PAYMENT TERMS**

9. In agreeing to the penalty described in paragraph 8 above, EPA has taken into account the statutory penalty factors at Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3).

10. Respondents shall pay a total penalty of \$48,000 within ten days of the date this

CAFO becomes final.

11. Respondents shall make the payment by cashier's or certified check or wire transfer. Respondents shall include the case name and docket number of this action (*In the matter of Fafard Real Estate and Development Corp., et al.*, No. CWA-01-2019-0017) on the face of the check or wire transfer confirmation. A check should be payable to "Treasurer, United States of America" and shall be remitted as follows:

If remitted by regular U.S. mail:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

If remitted by any overnight commercial carrier:

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 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, NY 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

In addition, at the time of payment, Respondents shall simultaneously send notice of the payment and a copy of the check or electronic wire transfer confirmation to:

Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100 (Mail Code: 04-6)  
Boston, MA 02109-3912

and

Tim Conway  
Acting Deputy Regional Counsel  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100 (Mail Code: 04-3)  
Boston, Massachusetts 02109-3912

12. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), a failure by the Respondents to pay the penalty assessed by this CAFO in full by its due date shall subject Respondents to a civil action to collect the assessed penalty, plus interest at the prevailing rates, from the date this Agreement becomes final. The rate of interest assessed shall be at the rate set forth in 31 C.F.R. § 901.9(b), promulgated under 31 U.S.C. § 3717. Any person who fails to pay on a timely basis the amount of an assessed penalty shall be required to pay, in addition to such amount and interest, attorney's fees, costs for collection proceedings, and a quarterly nonpenalty payment for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent of the aggregate amount of such person's penalties and nonpayment penalties that are unpaid as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

## VI. GENERAL PROVISIONS

13. The provisions of this CAFO shall apply to and be binding on Respondents, their officers, directors, agents, servants, employees, successors, and assigns.

14. The civil penalty provided under this CAFO, and any interest, nonpayment penalties, and charges described in this CAFO, shall represent penalties assessed by EPA within

the meaning of 26 U.S.C. § 162(f) and are not tax deductible for purposes of federal, state, or local law. Accordingly, Respondents agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agrees not to use those payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

15. This CAFO does not constitute a waiver, suspension, or modification of the requirements of the CWA or any regulations or permits promulgated thereunder. Payment of the penalty pursuant to this CAFO resolves only Respondents' liability for federal civil penalties for the violations and facts alleged in the Complaint.

16. This CAFO in no way relieves Respondents or its employees of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to undertake any action against Respondents in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

17. Nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this CAFO or of the statutes and regulations upon which the Complaint and this CAFO is based, or for Respondents' violation of any applicable provision of law.

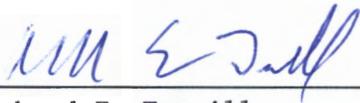
18. The Parties shall bear their own costs and fees in this action, including attorney's fees, and specifically waive any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

19. Respondents' obligations under the CAFO shall end when Respondents have paid in full the scheduled civil penalty, paid any stipulated penalties, and submitted the documentation required by this CAFO.

20. The terms, conditions, and requirements of this CAFO may not be modified or amended except upon the written agreement of all parties, and approval of a Regional Judicial Officer.

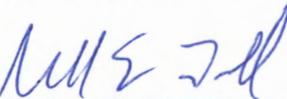
21. Each undersigned representative of the Parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

FOR FAFARD REAL ESTATE AND DEVELOPMENT CORP.

  
\_\_\_\_\_  
Name Richard E. Terrill  
Title Director

Date: 6/29/19

FOR UXBRIDGE MULTI FAMILY REALTY LLC

  
\_\_\_\_\_  
Name Richard E. Terrill  
Title Authorized Signatory

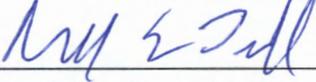
Date: 6/29/19

FOR BELLINGHAM RESIDENTIAL REALTY LLC

  
\_\_\_\_\_  
Name Richard E. Terrill  
Title Authorized Signatory

Date: 6/29/19

FOR LONGVIEW REALTY TRUST

  
\_\_\_\_\_  
Name Richard E. Terrill  
Title Trustee

Date: 6/29/19

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY:



Karen McGuire, Director  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 1

Date: 7-3-19

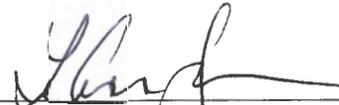
**FINAL ORDER**

1. EPA has provided the public a thirty-day opportunity for public notice and comment on this proposed CAFO, pursuant to Sections 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A) and 40 C.F.R. § 22.45(b). EPA received no public comments.

2. Pursuant to 40 C.F.R. §§ 22.18(b) & (c) of EPA's Consolidated Rules of Practice, the foregoing Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

3. Respondents are hereby ordered to comply with the terms of the above Consent Agreement, which will become final thirty (30) days from the date it is signed by the Regional Judicial Officer.

Date: 7/8/19



\_\_\_\_\_  
LeAnn Jensen  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region 1